

Schena, Cristeen

From: Julie Crocker - NOAA Federal <julie.crocker@noaa.gov>
Sent: Friday, May 23, 2014 2:55 PM
To: Morin, Michelle
Cc: Hooker, Brian;Lewandowski, Jill;Mcmillen, Matthew C;Stribley, Todd;Adams, Karen K
NAE;Stein, Mark;McDonnell, Ida;Julie Williams - NOAA Federal
Subject: Amended Incidental Take Statement for 2010 Cape Wind Biological Opinion
Attachments: 5_21_14 NMFS Cape Wind Amended ITS.pdf; 5_21_14 NMFS letter to BOEM re Amended ITS.pdf

Ms. Morin,

In response to the decision of the Federal district court in Public Employees for Environmental Responsibility (PEER) et al., v. Beaudreau et al., 1:10-cv-01067-RBW (D.D.C., March 14, 2014) and the particular circumstances of that court's remand order, we have prepared an amended Incidental Take Statement for the Opinion we issued to you in 2010.

Please find attached a transmittal letter and the amended ITS. As the US Army Corps of Engineers, U.S. Environmental Protection Agency, and the Department of Energy are also action agencies, we are providing a copy of the documents to them as well.

Julie Crocker

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Julie Crocker
Protected Resources Division
Greater Atlantic Regional Fisheries Office
(formerly Northeast Regional Office)
National Marine Fisheries Service
55 Great Republic Drive
Gloucester, MA 01930



UNITED STATES DEPARTMENT OF COMMERCE
National Oceanic and Atmospheric Administration
NATIONAL MARINE FISHERIES SERVICE
NORTHEAST REGION
55 Great Republic Drive
Gloucester, MA 01930-2276

MAY 21 2014

Michelle Morin
Chief, Environment Branch for Renewable Energy
Environmental Division
Bureau of Ocean Energy Management
381 Elden Street
Mail Stop 1328
Herndon, VA 20170

Re: ESA Consultation for Cape Wind

Dear Ms. Morin,

Enclosed is an amended Incidental Take Statement (ITS) for the biological opinion (Opinion), issued by us on December 30, 2010, under Section 7(a)(2) of the Endangered Species Act (ESA), to the Bureau of Ocean Energy Management, Regulation and Enforcement (BOEM) regarding the proposed construction, operation and future decommissioning by Cape Wind Associates, LLC of a wind energy project on Horseshoe Shoal in federal waters of Nantucket Sound, Massachusetts. While BOEM is the lead Federal agency for the section 7 consultation, the U.S. Army Corps of Engineers, Environmental Protection Agency and the Department of Energy also have a role in authorizing or funding the action. We will be sending a copy of this letter and amended ITS to those agencies as well.

The amended ITS is being issued in response to the decision by the Federal district court in Public Employees for Environmental Responsibility et al., v. Beaudreau et al., 1:10-cv-01067-RBW (D.D.C., March 14, 2014). The amended ITS adds a new section entitled "ESA Listed Marine Mammals." It indicates that we do not anticipate any incidental take of North Atlantic right whales, fin whales and humpback whales and that the amount or extent of incidental take is set at zero. If there is any incidental take of North Atlantic right whales, humpback whales or fin whales, we will consider the specified amount or extent of incidental take to be exceeded, and, pursuant to 50 CFR §402.14(h)(4) and 50 CFR §402.16(a), consultation must be reinitiated immediately. The amended ITS includes Reasonable and Prudent Measures and implementing Terms and Conditions necessary and appropriate for monitoring and reporting any incidental take of listed whales. These measures are consistent with monitoring and reporting requirements included as part of the proposed action we analyzed in the 2010 Opinion and the measures required by the lease you issued to Cape Wind on November 1, 2010. As required in those documents, any interactions with ESA listed whales must be reported to NMFS within 24 hours.



The amended ITS still includes the measures required to minimize, monitor, and report any take of sea turtles.

We look forward to continuing to work cooperatively with your office to minimize the effects of energy projects on listed species in the northeast region. For further information regarding any consultation requirements, please contact Julie Crocker at (978)282-8480 or by e-mail (Julie.Crocker@noaa.gov). Thank you for working cooperatively with my staff throughout this consultation process.

Sincerely,


for John K. Bullard
Regional Administrator

cc: Lewandowski- BOEM
McDonnell – EPA R1
Adams – ACOE
McMillan – DOE

File Code: Section 7 MMS/BOEM Cape Wind Nantucket
PCTS: NER-2010-3866

MAY 21 2014

INCIDENTAL TAKE STATEMENT- Amended _____

[NOTE: We have prepared this amended Incidental Take Statement in response to the decision of the Federal district court in Public Employees for Environmental Responsibility (PEER) et al., v. Beaudreau et al., 1:10-cv-01067-RBW (D.D.C., March 14, 2014) and the particular circumstances of that court's remand order.]

Section 9 of the ESA prohibits the take of endangered species. Take is defined as to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture or collect, or to attempt to engage in any such conduct. NMFS interprets the term "harm" as an act which actually kills or injures fish or wildlife. Such an act may include significant habitat modification or degradation where it actually kills or injures fish or wildlife by significantly impairing essential behavioral patterns, including breeding, spawning, rearing, migrating, feeding or sheltering (50 CFR §222.102). Incidental take is defined as take that is incidental to, and not the purpose of, the carrying out of an otherwise lawful activity. The term "harass" has not been defined by NMFS; however, it is commonly understood to mean to annoy or bother. In addition, legislative history helps elucidate Congress' intent: "[take] includes harassment, whether intentional or not. This would allow, for example, the Secretary to regulate or prohibit the activities of birdwatchers where the effect of those activities might disturb the birds and make it difficult for them to hatch or raise their young" (HR Rep. 93-412, 1973). Under the terms of section 7(b)(4) and section 7(o)(2), taking that is incidental to and not intended as part of the agency action is not considered to be prohibited under the ESA provided that such taking is in compliance with the terms and conditions of this Incidental Take Statement.

Amount or Extent of Incidental Take

Sea Turtles

The proposed action has the potential to directly affect loggerhead, Kemp's ridley, green and leatherback sea turtles by causing them to be exposed to potentially harassing levels of sound during pile driving and the high resolution geophysical survey. As explained in the "Effects of the Action" section of the accompanying Opinion, only sea turtles located within a 34.56 square km area surrounding the pile being driven will be exposed to noise levels between 160 and 180 dB. As explained on page 90 of the "Effects of the Action" section, NMFS has estimated that between 3 and 7 sea turtles are likely to be exposed to disturbing levels of noise during each 4 hour pile driving event. As pile driving will occur for approximately four to six hours per pile over a period of approximately eight months, the potential for exposure will be limited to that time period only. As explained in the "Effects of the Action" section, during the high resolution geophysical survey program, any sea turtles located within 227 meters from the chirp and 386 meters from the boomer will be exposed to noise levels between 160 and 180 dB. During the survey, an area of approximately 148 square kilometers will be surveyed. Based on the estimates of sea turtle density in the action area (explained on page 90), NMFS estimates that between 13 and 28 sea turtles would be exposed to disturbing levels of noise during the survey. At any given time during the survey, an approximately 0.384 square kilometer area will have noise levels between 160 and 180 dB.

Exposure of sea turtles to sound levels greater than 160 dB will be considered harassment

because that level of noise will disturb sea turtles and their normal behaviors (i.e., resting, foraging or migrating through the area) will be interrupted. Any sea turtles located within 3.4km of the pile being driven will be exposed to these disturbing noise levels and are likely to exhibit avoidance behavior which would cause the alteration of normal behaviors. As loggerhead, Kemp's ridley, green and leatherback sea turtles are likely to be present in the action area and exposed to potentially harassing sound levels, harassment of any of these species could occur and NMFS anticipates that the 3-7 sea turtles exposed to harassing noise levels during each pile driving event and the 13-28 sea turtles exposed to harassing levels of noise during the geophysical survey will be a combination of these species. As sea turtles are only likely to occur in the action area between June and November, only pile driving occurring during these months will result in the harassment of sea turtles. Similarly, effects to sea turtles from the high resolution geophysical survey would only occur if the survey took place between June and November. Incidental take via harassment will be limited to the spatial and temporal extent indicated above.

NMFS believes this level of incidental take is reasonable given the likely seasonal distribution and abundance of sea turtles in the action area and the modeling results provided by BOEM in the BA and DEIS. In the accompanying biological opinion, NMFS determined that this level of anticipated take is not likely to result in jeopardy to these species. As explained above, any incidental take of loggerhead, Kemp's ridley, green and leatherback sea turtles will be limited to: the time period when pile driving is occurring and be limited to a 34.56 square kilometer area surrounding the pile being driven and the time period when the high resolution geophysical survey is occurring and be limited to a 0.384 square kilometer area at any given time during the survey.

ESA Listed Marine Mammals

As defined in the NMFS/FWS Endangered Species Consultation Handbook, a "not likely to adversely affect" determination "is the appropriate conclusion when effects on listed species are expected to be discountable, insignificant, or completely beneficial. Insignificant effects relate to the size of the impact and should never reach the scale where take occurs. Discountable effects are those extremely unlikely to occur. Based on best judgment, a person would not: (1) be able to meaningfully measure, detect, or evaluate insignificant effects; or (2) expect discountable effects to occur" (page xiv-xv). As explained in the "Effects of the Action" and "Conclusion" sections of the accompanying Opinion, we determined that all effects to North Atlantic right whales, humpback whales and fin whales will be insignificant and discountable. As a result, we concluded that the proposed action may affect, but is not likely to adversely affect, these species and that incidental take is unlikely to occur. In situations in which NMFS does not consider take to be reasonably likely to occur, the Consultation Handbook advises NMFS to state that it does not anticipate any take (page 4-48). Consequently, in light of the Biological Opinion's analysis of, and conclusions about, the effects of the proposed action on listed whales, NMFS does not anticipate the proposed action will incidentally take any North Atlantic right whales, humpback whales or fin whales. In addition, given the PEER court's order to issue an Incidental Take Statement that addresses what number of takes would trigger reinitiation of consultation, and in light of the accompanying Biological Opinion, we are specifying that the amount of incidental take of right whales, humpbacks, and fin whales anticipated is zero. If there is any incidental take of North Atlantic right whales, humpback whales or fin whales, we will consider the

specified amount or extent of incidental take to be exceeded, and, pursuant to 50 CFR §§ 402.14(i)(4) and 402.16, consultation must be reinitiated immediately.

Reasonable and Prudent Measures and Terms and Conditions

Reasonable and Prudent Measures for ESA Listed Marine Mammals

We are not requiring any reasonable or prudent measures or terms and conditions to minimize take of right whales, humpback whales or fin whales. This is because we do not anticipate any incidental take of these whale species; therefore, there is no amount or extent of incidental take to minimize and no Reasonable and Prudent Measures to minimize take of these species are necessary or appropriate.

We have considered whether there is sufficient monitoring in place to allow us to know if take does occur. As discussed in the Opinion, several monitoring requirements are part of the proposed action. These measures are included as requirements of the lease granted to Cape Wind on November 1, 2010.¹ Specific to whales, Cape Wind is required to post a look out on all vessels associated with the project. This lookout must be on watch for whales and be in direct communication with the vessel captain so that if a whale is spotted, speed can be reduced and whales can be avoided. Part 9(1)(b)(ii) of the lease requires compliance with Notice to Lessee's (NTL) 2007-GO4 which requires reporting of any strikes of marine mammals to BOEM and NMFS within 24-hours. In the unanticipated event that a whale is struck, the incident must be reported to BOEM and NMFS within 24 hours. The combination of the dedicated lookout and the reporting requirement ensures that if a whale is struck by a project vessel, we would be promptly informed and consultation could be reinitiated. Dedicated observers are also required during the geophysical surveys and during pile driving. While we do not anticipate listed whales will be in the exclusion zone at the time the survey equipment is operating or pile driving is taking place, if project personnel do observe one or more, they must communicate those observations and initiate shut down provisions. Although the accompanying Opinion explains that listed whales are extremely unlikely to be in the action area, the requirement to monitor the Right Whale Sightings Advisory System (<http://www.nefsc.noaa.gov/psb/surveys/>) is an important complement to observing the exclusion zones. Monitoring the Right Whale Sightings Advisory System would enable project personnel to know if right whales have been sighted in the action area, including beyond the exclusion zones. All observations of protected species must be promptly reported to NMFS and all observations of injured or dead animals must be reported within 24 hours. Reporting of injured or dead whales is required during pile driving, the jet plow operations for cable laying, and the geophysical surveys by Section 9(1)(f), 9(1)(k), and 9(1)(l) of Addendum C of the lease document. We have determined that these monitoring and reporting measures are sufficient to allow us to know when a take occurs; no other monitoring and reporting requirements are necessary or appropriate. Therefore, in order to ensure that any unanticipated incidental take of whales is detected and reported, the following monitoring and reporting measures are required by this ITS:

1. BOEM and Cape Wind Associates must ensure that lookouts are posted on all project related vessels, including the geophysical survey vessels and the cable laying vessel, to monitor for the presence of whales and to communicate with the captain to slow down

¹ Lease document available at:
http://www.boem.gov/uploadedFiles/BOEM/Renewable_Energy_Program/Studies/CapeWind_signed_lease.pdf

- and avoid any whales that are sighted.
2. BOEM and Cape Wind Associates must ensure that observers are present during the geophysical surveys to monitor for the presence of whales.
 3. BOEM and Cape Wind Associates must ensure that observers are present during pile driving to monitor for the presence of whales.
 4. BOEM and Cape Wind Associates must ensure that any observations of whales are reported to NMFS.

The following Terms and Conditions are required to implement the above monitoring and reporting measures. All of these Terms and Conditions are consistent with measures already part of the action considered in the Biological Opinion and required by the lease issued to Cape Wind.

1. To implement RPM #1, BOEM and Cape Wind must ensure that the Right Whale Sightings Advisory System is monitored by project personnel prior to leaving port each day. Information on right whale sightings is available at:
<http://www.nefsc.noaa.gov/psb/surveys/>
2. To implement RPM #1, BOEM and Cape Wind must ensure that a look out is posted on all vessels associated with the project. This lookout must be on watch for whales and be in direct communication with the vessel captain so that if a whale is spotted, speed can be reduced and whales can be avoided.
3. To implement RPM#1, BOEM and Cape Wind must ensure that if whales are sighted, vessel operators comply with all vessel strike avoidance measures outlined in BOEM Notice to Lessees No. 2012-G01, NMFS' regulations for approach and avoidance of right whales (50 CFR §224.103(c)), and NMFS' Northeast Regional Viewing Guidelines.
4. To implement RPM #2, BOEM and Cape Wind must ensure that observers begin monitoring at least 60 minutes prior to soft start of the pile driving. Pile driving must not begin until the zone is clear of all listed whales for at least 60 minutes. Monitoring will continue through the pile driving period and end approximately 60 minutes after pile driving is completed.
5. To implement RPM #3, BOEM and Cape Wind must ensure that observers begin monitoring at least 60 minutes prior to the start of the high resolution geophysical survey. The survey must not begin until the zone is clear of all listed whales for at least 60 minutes. Monitoring will continue through the survey period and end approximately 60 minutes after the survey is completed.
6. To implement RPM#4, BOEM and Cape Wind must ensure that all observations of listed whales are reported to NMFS within 3 days. All reports must be submitted via e-mail (incidental.take@noaa.gov) and must include the following information: (a) date and time of observation; (b) species identification; (c) location of whale and location of observer/lookout documenting the sighting; (d) any notes on the behavior of the animal(s); and, (e) description of project operations at the time of the observation.

7. To implement RPM#4, BOEM and Cape Wind must ensure that any interactions with listed whales, including a ship strike, and/or any observations of injured or dead whales, regardless of whether the injury or death was caused by project operations, must be reported via e-mail to NMFS within 24 hours (incidental.take@noaa.gov) and must include the following information: (a) date and time of observation; (b) species identification; (c) location of whale and location of observer/lookout documenting the sighting; (d) any notes on the behavior of the animal(s) and, (e) description of project operations at the time of the observation. Additionally, any interactions with listed whales or observations of injured or dead whales, must be reported as soon as practicable to NMFS' Northeast Regional Hotline (866-755-6622).

These monitoring and reporting measures and their implementing terms and conditions ensure that if the incidental take of a whale were to occur during any project activity, it will be detected and we will be notified so that consultation can be reinitiated. No other monitoring or reporting requirements are necessary.

Because take of North Atlantic right whales, humpback whales or fin whales is not anticipated, no take authorization for these species is required under the Marine Mammal Protection Act for purposes of this ITS. Although we do not anticipate any take of listed marine mammals, the MMPA Incidental Harassment Authorization issued to Cape Wind for the proposed High Resolution Geophysical Survey (79 *Federal Register* 25835-25844, May 6, 2014) will require CWA to abide by certain mitigation measures to further reduce the risk of taking marine mammals. Those measures include: establishment of an exclusion zone; shut down and delay procedures; soft-start procedures; monitoring of the exclusion zone; and reporting of all observations of marine mammals.

Reasonable and Prudent Measures for Sea Turtles

Reasonable and prudent measures are those measures necessary and appropriate to minimize and monitor incidental take of a listed species. These reasonable and prudent measures are in addition to the mitigation measures proposed by BOEM and agreed to by Cape Wind that will become a part of the proposed action (see Appendix A of the accompanying Biological Opinion). NMFS believes the following reasonable and prudent measures are necessary and appropriate to minimize and monitor impacts of incidental take of sea turtles:

1. BOEM must ensure that any endangered species monitors contracted by Cape Wind are approved by NMFS.
2. During the conduct of pile driving activities related to turbine monopile and Electrical Service Platform (ESP) installation, the 750 meter exclusion zone must be monitored by a NMFS-approved endangered species monitor for at least 60 minutes prior to pile driving.
3. During the conduct of the high resolution geophysical survey, the 500 meter exclusion zone must be monitored by a NMFS-approved endangered species monitor for at least 60 minutes prior to the survey.
4. Acoustic measurement of the first pile being driven must be conducted to confirm the

sound levels modeled by BOEM and reported in the BA.

5. Prior to decommissioning, BOEM must provide to NMFS a complete plan for decommissioning activities.

Terms and conditions to implement RPMs for Sea Turtles

In order to be exempt from prohibitions of section 9 of the ESA, BOEM must comply with the following terms and conditions, which implement the reasonable and prudent measures described above and which outline required minimization and monitoring requirements. These terms and conditions are non-discretionary.

1. To implement RPM #1, BOEM shall provide NMFS with the names and resumes of all endangered species monitors to be employed at the project site at least 30 days prior to the start of construction. No observer shall work at the project site without written approval of NMFS. If during project construction or operations, additional endangered species monitors are necessary, BOEM will provide those names and resumes to NMFS for approval at least 10 days prior to the date that they are expected to start work at the site.
2. To implement RPM #2, observers must begin monitoring at least 60 minutes prior to soft start of the pile driving. Pile driving must not begin until the zone is clear of all sea turtles for at least 60 minutes. Monitoring will continue through the pile driving period and end approximately 60 minutes after pile driving is completed.
3. To implement RPM #2 and #3, adequate lighting must be provided on all vessels used for endangered species observation to ensure that observers can monitor the exclusion zone for listed sea turtles. If sufficient lighting can not be provided, activities must be limited to daylight hours.
4. To implement RPM #3, observers must begin monitoring at least 60 minutes prior to the start of the high resolution geophysical survey. The survey must not begin until the zone is clear of all sea turtles for at least 60 minutes. Monitoring will continue through the survey period and end approximately 60 minutes after the survey is completed.
5. To implement RPM #4, acoustic monitoring must be conducted to verify that sound levels at 3.4km from the pile being driven is less than 160 dB. Results of this monitoring must be reported to NMFS prior to the driving of any subsequent piles.
6. To implement RPM #5, if the project is to be decommissioned, BOEM must provide a complete decommissioning plan and analysis of effects on listed species to NMFS. NMFS would then review the plan to determine if reinitiation of this consultation is necessary.

The reasonable and prudent measures, with their implementing terms and conditions, are designed to minimize and monitor the impact of incidental take that might otherwise result from

the proposed action. Specifically, these RPMs and Terms and Conditions will ensure that no listed species are exposed to injurious levels of sound and will verify the modeling results provided by BOEM based on which NMFS has made conclusions regarding take.

RPM and Term and Condition #1 is necessary and appropriate because it is specifically designed to ensure that all endangered species monitors employed by the applicant are qualified to conduct the necessary duties. Including this review of endangered species monitors by NMFS staff is only a minor change because it is not expected to result in any delay to the project and will merely enforce the qualifications of the endangered species monitors that are already required by BOEM.

RPM and Term and Condition #2 as well as RPM#3 and Term and Condition #4 are necessary and appropriate to provide adequate monitoring by extending the time that monitoring of the exclusion zone must occur from the 30 minutes required by BOEM to 60 minutes. The normal duration of sea turtle dives ranges from 5-40 minutes depending on species, with a maximum duration of 45-66 minutes depending on species (Spotila 2004). As sea turtles can stay submerged for longer than 30 minutes, but typically surface at least every 60 minutes, it is reasonable to require that monitoring occur for at least 60 minutes to allow the endangered species monitor to detect any sea turtles that may be submerged in the exclusion zone. Increasing the time to 60 minutes is only a minor change because the observer will be on location already and an additional 30 minutes of observation is not expected to result in any effects to the project schedule. Term and Condition #3 is necessary and appropriate to provide adequate monitoring of the exclusion zone as if lighting is poor the endangered species monitors will not be able to effectively survey the exclusion zone. Requiring adequate lighting is only a minor change because the vessels will already have some lighting and the addition of extra lighting is not expected to be more than a minor cost and not cause any delay of the project. If sufficient lighting can not be provided and activities must be curtailed during the dark, the delay in project schedule will be only a few hours and this is not expected to result in more than a minor cost and minor effect on overall project schedule.

RPM #4 and Term and Condition #5 are necessary and appropriate because they are designed to verify that the sound levels modeled by BOEM are valid and that the 3.4km zone where sound levels are expected to be greater than 160dB is accurate. This RPM and Term and Condition does not cause more than minor changes because Cape Wind is already required by BOEM to conduct monitoring of underwater sound levels associated with the driving of the first three piles. These measurements must be taken at 100m, 500m and 750m in two directions either west, east, south or north of the pile driving site. The addition of one additional monitoring site for one pile driving event will not cause delays to the project or add a significant cost. RPM #5 and Term and Condition #6 is necessary and appropriate as way to help monitor the proposed action and incidental take by ensuring that the effects of any decommissioning activities on listed species have been adequately analyzed. As it is impossible to predict the exact decommissioning scenario and the status of listed species at the time of decommissioning it is necessary to review the decommissioning plan when it is developed.

These RPMs and Terms and Conditions in conjunction with the mitigation measures proposed by BOEM and agreed to by Cape Wind that will become a part of the proposed action will serve to

minimize and monitor incidental take of listed species.

CONSERVATION RECOMMENDATIONS

Section 7(a)(1) of the ESA directs Federal agencies to utilize their authorities to further the purposes of the ESA by carrying out conservation programs for the benefit of endangered and threatened species. Conservation recommendations are discretionary agency activities to minimize or avoid adverse effects of a proposed action on listed species or critical habitat, to help implement recovery plans, or to develop information. NMFS has determined that the proposed action is not likely to jeopardize the continued existence of any listed species. To further reduce the adverse effects of the proposed actions, NMFS recommends that BOEM work with the applicant, Cape Wind Associates, to implement the following conservation recommendations.

1. To the extent practicable, pile driving should be minimized during the June – October timeframe when sea turtles are expected to occur in the action area.
2. As there is limited data on use of Nantucket Sound by listed sea turtles, BOEM and/or Cape Wind should support additional survey effort. This could include aerial surveys of the action area specifically targeting sea turtles.

REINITIATION OF CONSULTATION

This concludes formal consultation with BOEM, ACOE and EPA regarding the proposed construction, operation and future decommissioning by Cape Wind Associates LLC of a wind energy project on Horseshoe Shoal. As provided in 50 CFR 402.16, reinitiation of formal consultation is required where discretionary federal agency involvement or control over the action has been retained (or is authorized by law) and if: (1) the amount or extent of incidental take is exceeded; (2) a new species is listed or critical habitat designated that may be affected by the action; (3) the agency action is subsequently modified in a manner that causes an effect to the listed species or critical habitat not considered in this opinion; or (4) new information reveals effects of the action that may affect listed species or critical habitat in a manner or to an extent not previously considered.

Schena, Cristeen

From: McCoy, Angel <angel.mccoy@boem.gov>
Sent: Tuesday, May 13, 2014 11:51 AM
To: Cooke, Donald
Subject: Re: Cape Wind Energy Project General Conformity Determination

Thank you for the information.

On Mon, May 12, 2014 at 12:48 PM, Cooke, Donald <cooke.donald@epa.gov> wrote:

The Lead Federal Agency must publish a draft conformity determination for a thirty day review and public comment period.

The Lead Federal Agency must also document its response to all comments received on a draft conformity determination prior to releasing its final General Conformity determination.

Donald O. Cooke, Environmental Scientist

U.S. Environmental Protection Agency

EPA New England Regional Office

Office of Ecosystem Protection, Air Quality Planning Unit

5 Post Office Square - Suite 100, (Mail code OEP05-2)

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§93.155 Reporting requirements.

(a) A Federal agency making a conformity determination under §§93.154 through 93.160 and §§93.162 through 93.164 must provide to the appropriate EPA Regional Office(s), State and local air quality agencies, any federally-recognized Indian tribal government in the nonattainment or maintenance area, and, where applicable, affected Federal land managers, the agency designated under section 174 of the Act and the MPO, a 30-day notice which describes the proposed action and the Federal agency's draft conformity determination on the action. If the action has multi-regional or national impacts (e.g., the action will cause emission increases in excess of the *de minimis* levels identified in §93.153(b) in three or more of EPA's Regions), the Federal agency, as an alternative to sending it to EPA Regional Offices, can provide the notice to EPA's Office of Air Quality Planning and Standards.

(b) A Federal agency must notify the appropriate EPA Regional Office(s), State and local air quality agencies, any federally-recognized Indian tribal government in the nonattainment or maintenance area, and, where applicable, affected Federal land managers, the agency designated under section 174 of the Clean Air Act and the MPO, within 30 days after making a final conformity determination under this subpart.

(c) The draft and final conformity determination shall exclude any restricted information or confidential business information. The disclosure of restricted information and confidential business information shall be controlled by the applicable laws, regulations, security manuals, or executive orders concerning the use, access, and release of such materials. Subject to applicable procedures to protect restricted information from public disclosure, any information or materials excluded from the draft or final conformity determination or supporting materials may be made available in a restricted information annex to the determination for review by Federal and State representatives who have received appropriate clearances to review the information.

§93.156 Public participation.

(a) Upon request by any person regarding a specific Federal action, a Federal agency must make available, subject to the limitation in paragraph (e) of this section, for review its draft conformity determination under §93.154 with supporting materials which describe the analytical methods and conclusions relied upon in making the applicability analysis and draft conformity determination.

(b) A Federal agency must make public its draft conformity determination under §93.154 by placing a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action and by providing 30 days for written public comment prior to taking any formal action on the draft determination. This comment period may be concurrent with any other public involvement, such as occurs in the National Environmental Policy Act (NEPA) process. If the action has multi-regional or national impacts (e.g., the action will cause emission increases in excess of the *de minimis* levels identified in §93.153(b) in three or more of EPA's Regions), the Federal agency, as an alternative to publishing separate notices, can publish a notice in the FEDERAL REGISTER.

(c) A Federal agency must document its response to all the comments received on its draft conformity determination under §93.154 and make the comments and responses available, subject to the limitation in paragraph (e) of this section, upon request by any person regarding a specific Federal action, within 30 days of the final conformity determination.

(d) A Federal agency must make public its final conformity determination under §93.154 for a Federal action by placing a notice by prominent advertisement in a daily newspaper of general circulation in the area affected by the action within 30 days of the final conformity determination. If the action would have multi-regional or national impacts, the Federal agency, as an alternative, can publish the notice in the FEDERAL REGISTER.

(e) The draft and final conformity determination shall exclude any restricted information or confidential business information. The disclosure of restricted information and confidential business information shall be controlled by the applicable laws, regulations or executive orders concerning the release of such materials.

From: McCoy, Angel [mailto:angel.mccoy@boem.gov]

Sent: Monday, May 12, 2014 11:56 AM

To: Cooke, Donald

Subject: Re: Cape Wind Energy Project General Conformity Determination

Another quick question.

Do we need to publish a draft determination before publishing the final?

Angel

On Mon, May 12, 2014 at 11:27 AM, McCoy, Angel <angel.mccoy@boem.gov> wrote:

Hi Don,

It was great talking to you last week and thank you for answering my questions. I have a few more (easy) questions for you.

What is the regulatory length of time that EPA has to respond to and/or accept a conformity determination? How long did the original Cape Wind determination take?

Thanks,

Angel

On Mon, May 5, 2014 at 12:10 PM, Cooke, Donald <cooke.donald@epa.gov> wrote:

I am the staff person in Region 1 (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont) that handles general conformity questions and assist other Federal Agencies in general conformity applicability, analyses and evaluations. I participated in the previous reviews and evaluation of Mineral Managements Service's General Conformity Determination for the Cape Wind Energy Project.

Please contact me regarding any general conformity questions or submission of early-draft documents for EPA feedback.

With respect to the appropriate EPA Region 1 Office Contact for submitting BOEM's Official Draft and Final General Conformity Determinations I will need to get back to you.

Donald O. Cooke, Environmental Scientist

U.S. Environmental Protection Agency

EPA New England Regional Office

Office of Ecosystem Protection, Air Quality Planning Unit

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Telephone (617) 918-1668

Fax # (617) 918-0668

E-Mail cooke.donald@epa.gov

From: McCoy, Angel [mailto:angel.mccoy@boem.gov]

Sent: Monday, May 05, 2014 10:40 AM

To: Cooke, Donald

Cc: Angel McCoy

Subject: Cape Wind Energy Project General Conformity Determination

Hello Donald,

I am the Air Quality subject matter expert for **BOEM's** Renewable Energy Programs. You may be aware, but the Cape Wind Energy Project is likely to move their staging location from Quonset, RI to New **Bedford**, MA. I am contacting you because this move would require **BOEM** (me) to do a new Conformity Determination as the previous determination would no longer be valid ([http://yosemite.epa.gov/oa/eab_web_docket.nsf/filings%20by%20appeal%20number/1ed8b2f289e44383852578330062a8e9/\\$file/petition%20for%20review%20--%20appendix%20d...1.04.pdf](http://yosemite.epa.gov/oa/eab_web_docket.nsf/filings%20by%20appeal%20number/1ed8b2f289e44383852578330062a8e9/$file/petition%20for%20review%20--%20appendix%20d...1.04.pdf)). Would I submit the document to you, if not, then who should be my point of contact at EPA?

I have a few other quick questions once I confirm my point of contact. Feel free to email me or call me at 240.205.3414.

Thank you and I look forward to hearing from you.
Angel

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Angel M. McCoy

Meteorologist, Environmental Branch

Office of Renewable Energy Programs

Bureau of Ocean Energy Management

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Schena, Cristeen

From: McCoy, Angel <angel.mccoy@boem.gov>
Sent: Monday, May 12, 2014 11:56 AM
To: Cooke, Donald
Subject: Re: Cape Wind Energy Project General Conformity Determination

Another quick question.

Do we need to publish a draft determination before publishing the final?

Angel

On Mon, May 12, 2014 at 11:27 AM, McCoy, Angel <angel.mccoy@boem.gov> wrote:

Hi Don,

It was great talking to you last week and thank you for answering my questions. I have a few more (easy) questions for you.

What is the regulatory length of time that EPA has to respond to and/or accept a conformity determination? How long did the original Cape Wind determination take?

Thanks,

Angel

On Mon, May 5, 2014 at 12:10 PM, Cooke, Donald <cooke.donald@epa.gov> wrote:

I am the staff person in Region 1 (Connecticut, Maine, Massachusetts, New Hampshire, Rhode Island, and Vermont) that handles general conformity questions and assist other Federal Agencies in general conformity applicability, analyses and evaluations. I participated in the previous reviews and evaluation of Mineral Managements Service's General Conformity Determination for the Cape Wind Energy Project.

Please contact me regarding any general conformity questions or submission of early-draft documents for EPA feedback.

With respect to the appropriate EPA Region 1 Office Contact for submitting BOEM's Official Draft and Final General Conformity Determinations I will need to get back to you.

Donald O. Cooke, Environmental Scientist

U.S. Environmental Protection Agency

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Boston, MA 02109 - 3912

Telephone (617) 918-1668

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E-Mail cooke.donald@epa.gov

From: McCoy, Angel [mailto:angel.mccoy@boem.gov]

Sent: Monday, May 05, 2014 10:40 AM

To: Cooke, Donald

Cc: Angel McCoy

Subject: Cape Wind Energy Project General Conformity Determination

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Schena, Cristeen

From: McCoy, Angel <angel.mccoy@boem.gov>
Sent: Monday, May 12, 2014 11:28 AM
To: Cooke, Donald
Subject: Re: Cape Wind Energy Project General Conformity Determination

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Regional Planning Body Interagency Coordination Workshop

April 14, 2014

Boston, MA

Draft Meeting Summary

Ocean planning staff convened a meeting of state and federal agencies to discuss and explore ways in which the Regional Planning Body (RPB) and its individual agency participants could meet the RPB goal of “effective decision-making.” The following is a summary of the workshop, without attribution by name or organization.

Participants: The list of participants is attached.

Purpose of workshop

The purpose of the workshop was as follows:

1. Generate, review, and refine options for achieving effective decision-making goal, with sufficient detail to obtain stakeholder input in subsequent outreach
2. Understand the process to advance this RPB goal through the Nov 2014 RPB meeting
3. Identify immediate next steps for internal discussion

Background materials based on earlier consultation with the agencies were provided to the agencies in preparation for the workshop. The workshop was divided into two sessions. The morning session focused on how the Northeast Ocean data portal could be used in decision-making. The afternoon session focused on potential coordination and administrative efficiencies related to the effective decision-making goal.

A very brief summary of key points made during the day is just below.

Summary of Data Portal Discussion

The following is a brief overview summary of key points made during discussion of the data portal.

- There are multiple opportunities to pursue incorporation of the data portal into the regional ocean plan, RPB discussions, and individual agencies to help achieve the goal of effective decision-making.
- The data portal’s quality and functionality will help ensure its use; a focus going forward should be on additional data enhancements and other data portal improvements.

- The data portal is most likely very useful in pre-applications, useful in the early stages or screening, and less useful, except on a case-by-case basis, for detailed application review due to the site-specific nature of data needed at that point. However, using the data portal to help inform the discussion of data gaps and additional study needs could occur on a project-specific basis.
- The future of the data portal's utility will be directly related to the outcomes of additional discussions on this topic, with opportunities to enhance existing functionality and provision of data.

Summary of Agency Coordination Discussion

The following is a brief overview summary of key points made during discussion of the agency coordination.

- To the extent possible, draw on existing coordination mechanisms already in place within and across various agencies.
- There are numerous models of coordination with the Federal Highway Administration, and ACOE, FERC, and the regional dredge teams that could serve as models for interagency coordination.
- Different kinds projects have differing coordination needs: the energy project process is farthest along, sand and gravel mining is in process now and would benefit from agency coordination soon, and aquaculture in general needs early discussion about how permitting would even work in federal waters.

Morning Session: Data Portal

To organize the discussion, the participants were asked to address the data portal as follows:

- What is the value of the data portal at each agency decision-making stage (pre-application, screening, and guidance) and for whom? Are these categories appropriate for continuing the discussion? *(Please see appendix of pre-meeting materials and an explanatory graphic.)*
- What specific process, agency, or multiple entities might require, suggest, or encourage its use? We've heard NEPA, USACE, BOEM guidelines as specific opportunities. Others?
- What specific mechanisms would be used to facilitate each of those processes (MOUs, policies, regulations, etc.)?

Discussion of Data Portal as a Pre-Application Tool

Participants identified the following ways in which the Northeast ocean data portal would be valuable as a pre-application tool.

- Illustrates potential conflicts between uses/resources and/or among uses that lead to permitting challenges; illustration of those relationships also supports better informed discussion of mitigation options
- Presents a known source of standardized data; can help establish a “common language” for agencies as well as other users
- Can provide certainty to a proponent about what kind and how much data is needed
- Identifies potential alternatives and deal breakers early on
- Good base from which to start because it tells you what you don’t know¹
- Data portal isn’t just about natural resources: human use data is valuable for identifying and engaging other impacted constituencies/user groups to address potential socio-economic issues/impacts
- Opportunity to reveal fundamental differences among the agencies regarding data interpretation and needs
- Development and use of the portal is similar to that for the National Wetland Initiative (NWI) maps: sophistication and utility grow over time, but at their core, they are valuable tools

Participants identified what the Northeast ocean data portal is not.

- Not a one stop shop
- Not used for fishery management
- Not a preliminary approval
- Absence of data is not necessarily an absence of an issue
- Not a source of non-spatial data (like water quality)

Participants identified the following authorities under which the Northeast ocean data portal might be referenced in pre-application processes.

- NOAA and USFWS Endangered Species Act (ESA) and Magnuson-Stevens Essential Fish Habitat (EFH) consultations
- BOEM leasing processes (wind & sand)
- FERC and the FCC (for energy and communications cabling/pipelines)
- CZMA
- USACE permits (Clean Water Act and Rivers and Harbors Act)

¹ John W: Potential for incorporation of confidence ratings in the future or ways of visualizing data “certainty” such as the NCCOS model

- Federal agency actions (like a Corps dredging project) should be included, so this is about “agency decision-making” broadly and not just “review/permitting.” Agencies are sometimes project proponents too.
- Portal could link to state databases for higher resolution data if/when appropriate

The participants raised the following ideas or concerns.

- Should certain types of state data be incorporated, such as with cetacean data in the MA Plan, where that data as a derived product represents a resource or use on a regional scale?
- Northeast ocean data portal needs to represent agency “consensus” around portal information instead of serving as a kind of dumping ground - how do we ensure quality?
- Need to carefully qualify “best available data” – could be characterized as “best available screening data” and include legal caveats “does not represent a predetermination” so as agencies are not accused later of not having provided sufficient or full information
- Acknowledge limited utility of the Northeast ocean data portal for sensitive/classified class of information such as certain historic preservation data or Department of Defense data
- Agencies need to “own” the data they contribute/manage
- How to incorporate/acknowledge qualitative data – agencies could review, comment on, and raise any concerns they have, but not be asked to formally “approve” such data collectively -- otherwise, it will be hard to get such data up on the Northeast ocean data portal
- Different agencies look at similar data and draw different conclusions regarding adequacy, etc. Analysis of avian data, for example, differs by agency

The participants then talked about what specific mechanisms or means they would utilize to ensure that the Northeast ocean data portal was used in pre-applications and noted the following.

- Sector-specific outreach and awareness
- Need commitment by agencies to use the data in their own initial pre-application screening
- Put the onus on the agencies: if you can’t require proponents to use the Northeast ocean data portal, require the agencies to use it
- Corps’ Programmatic General Permit Category II could require use of Northeast ocean data portal

- USCG Navigation Circular, and perhaps other mechanisms we already have, are good ways of informing key constituents

Participants also identified some issues and concern.

- Must be careful with any developer's data (QA/QC needed) given that it may have or may be seem to have biases
- Unbiased data is critical
- Aggressive approach needed to account for changing conditions
- Clear understanding of how different agencies interpret data sets differently = key to achieving early efficiency
- Certainty is key; if data is signed off by an agency then proponents will use it
- Value achieved when agencies don't have to just request "more data"

Discussion of Northeast Ocean Data Portal as Screening Tool

Participants identified the following ways in which the Northeast ocean data portal would be valuable as a screening tool.

- Provides the public with the opportunity for informed participation
- Allows all to better evaluate initial options and constraints
- Helps agencies assess adequacy/robustness of range of alternatives early on
- Useful for early cumulative analysis (regional context for site-specific project)
- Faster, more timely, and more comprehensive data for all to use (agencies, consultants, proponents, advocates, etc.)

Participants identified the following authorities under which the Northeast ocean data portal might be referenced in screening processes.

- Predominantly NEPA, but consensus in the room that the list of authorities here doesn't change much from those listed above for the pre-application stage.

The participants then talked about what specific mechanisms or means they would utilize to ensure that the data portal was used in pre-application stage.

- Reference it clearly in the final RPB plan: data reflected in the portal forms the basis for management guidance to be used by agencies. Use of the data portal thereby supports consistency of information through the process. Since agencies are expected to utilize the plan, this would help ensure the data portal was explicitly used.
- Agencies signaling that they use the data portal will drive use by proponents – i.e., if they are using it, we better too.

- If we create a very good data portal, the fact is, the many consultants who support proponents will use it actively, likely repackage and sell it, and thus these intermediaries may be key audiences for ensuring successful use.
- Formal incorporation pre-requisites:
 - Should give idea of project feasibility for sake of efficiency: provide reason for developers to consult it?
 - Identify areas where agency doesn't have data that's needed – additional way of considering the implementation of the data portal

Discussion of Northeast Ocean Data Portal as Guidance

Participants identified the following ways in which the data portal could be used in guidance as well as issues the data portal raises at this point in a review process.

- Definitive ability to make decisions, such that if you propose to work in x area you must consider z and y impacts to resources and/or uses identified in the data portal
- Utility is relative: may be more useful for some data than others
- Data portal gives guidance, but agencies must have the final say. Any assignment of “value” by data is going to depend on the scale, the issue or proposal, and individual agency and proponent needs. It's not a “go/no go” tool but rather a spatial tool for identifying areas of opportunity and of concern.
- Limited utility this deep in the process when the data needs to be mostly site-specific
- In order to effectively provide guidance the Northeast ocean data portal must be fully up-to-date
- Specifics of the project make a difference in the utility of the Northeast ocean data portal this deep in the process: marine mammal data sets vs. meter specific trawl data, for example

Afternoon Session: Agency Coordination

NROC staff noted that the focus of the April 14 afternoon agenda would be an attempt to further refine the opportunities for further discussion. Participants were asked to reflect on previous experience with three of the four types of projects (energy and related infrastructure, aquaculture, sand extraction for beach nourishment—omitting carbon sequestration because such a project has not yet been proposed, so there is a lack of experience). The question is: “Is there a particular aspect of these projects that is particularly problematic from an agency administrative review/process perspective”? NROC staff noted that for these three types of projects participants should look to identify choke points in the review process (for both NEPA and permitting/licensing) and specific aspects of the review process that could benefit from

enhanced coordination. Alternately, if there are specific examples of instances where coordination was enhanced, it would be useful to capture those as potential models to expand upon. The purpose of this discussion will be to better define opportunities for increased efficiency that may be specific to each of the project types and that will be further investigated with the individual agencies and industry through the summer and fall.

Initial Challenges and Opportunities.

The participants were asked to jot down specific ideas on single sheets of paper and post their idea or concern along a continuum of NEPA scoping to adjudication and within or across one of the three project categories. Appendix B includes a summary of the initial ideas captured in the exercise. After completing the exercise of identifying a set of ideas and concerns, the participants discussed them under the stages of project development from NEPA through permitting and any associated appeals. The comments are organized below by “stage.”

NEPA SCOPING

- Pre-application meetings have real value; FERC has a number of models for engaging agencies and applicants
- Use existing coordination mechanisms to the extent possible: Harbor Safety meetings, for instance
- Agencies need to touch base all along the way in NEPA—not just in early scoping or at the end, but as alternatives are developed
- Pre-application meetings should be more standardized, not just at request of applicant. It’s uncomfortable to have to hear what other agencies are thinking through the applicant, rather than directly with each other
- Cooperating agency model could be the norm region-wide on a standardized basis
- Pre-application meetings shouldn’t be differentiated from NEPA pre-application reviews
- Lead agency should lay out their process steps for applicants and other agencies
- Front-load schedules, choke points, and steps for all cooperating agencies to reference. Use NEPA to coordinate this process
- Agencies with very little interest would be burdened if they were required to cooperate on every project
- Important to ID who are the lead, cooperating, and commenting agencies early on
- Late identification of problems by consulting agencies complicates things
- Flag authorities or policies that prevent agencies from administrative appeal if they are or are not a cooperating agency?

NEPA ROD/FONSI

- Identify existing mechanisms to leverage
- Aquaculture: opportunity for greater coordination through information sharing (who is involved, when, and where) from onset of project, i.e., right when grant is issued
- Concern that Participating Agency model ties agency hands from objecting deeper in the review/permitting process
- Concern about additional effort/staffing/resources
- Federal Highway Methodology and FERC as potential models
- Important to keep in mind how to use process to increase participation and transparency as system designs often times undercut this goal
- Need to be mindful of the Federal Advisory Committee Act provisions

PERMITTING

- Quarterly informal meetings to check-in among cooperating agencies
- Find the balance between high level policy discussion and in-the-weeds project detail where periodic coordination will add value
- Identify specialists to bring in at the right time
- Need to find a good balance between using existing mechanisms and creating new ones (BOEM state task forces, dredging teams, etc.)
- The regional dredging team model may be applicable: we have a regional team that looks at broad technical and policy issues, then state level teams, and then local teams for specific project review. Whether this model would be applied to each project category or more broadly could be discussed
- Rank criteria for process and efficiency “improvements” - doing so will provide insight into how much change is needed/finding balance between working around an issue and creating a new layer

APPEALS

- Importance of coordinating agency actions when responding to remand (such as in the recent Cape Wind example)

OTHER

- Process provides opportunity to better address potential enforcement issues and ensure that mitigation as implemented is consistent with permitting conditions. We are not done once a project is approved.
- Identify areas that CZM Plans already cover, and use the planning process as an opportunity to address as many of these issues (NEPA review, permitting, federal

consistency review) as possible. Look at what to enhance, what can be systematized, and what can be eliminated. This is a big opportunity to achieve efficiencies for the benefit of states, federal agencies, and proponents. This also provides the basis for identifying and developing new data that is directly responsive to agency and proponent needs/interests.

- What we've learned from other examples of success is that good public engagement has really helped lead to that outcome- important role to play in helping support best practices for stakeholder engagement.

This discussion concluded by participants identifying key questions the SeaPlan team might ask individual agencies in interviews. Ideas suggested include:

- Which areas or issues take priority for your agency between sometimes conflicting mandates?
- What is the commitment, practical and formal, for how your individual agency will use the Northeast ocean data portal? Engage in coordination activities?
- What existing advisory groups or interagency teams do you already have or participate in that might serve as useful coordinating mechanisms?
- What specific checklists, application forms, guidance, or other tools might you have to reference explicitly the Northeast ocean data portal and its use.

Workshop Summary

NROC staff helped close the workshop by thanking agencies for participation and noted the next steps that would follow. NROC staff and SeaPlan, the project contractor, will reach out to schedule interviews with individual agencies, almost immediately. The following schedule would apply:

- June 1: interviews complete
- July 1: reconvene this group to review refined options and ideas
- August: public comment
- September: agency review
- October: final workshop to hone ideas
- November: RPB for review and approval

Appendix A: Summary of Pre-Workshop Survey

Summary of Pre-Workshop Survey on the Northeast Data Portal

To initiate informed discussion, NROC develop background materials. This pre-workshop materials identified three possible “stages” where the data portal might be useful to federal and state agency staff – pre-application, screening, and guidance – discussion was organized to identify:” 1) the utility of the data portal; 2) the authority or process that would drive use of the portal; and 3) the mechanism for causing the portal to be used across the agencies.

NROC identified several options based on a pre-workshop survey. These options included:

1. Data portal serves as a regional screening tool
2. Data portal serves as a regional screening tool, but has added functionality to support an analysis of each of the four project types (sand extraction, energy, aquaculture, carbon sequestration)
3. Data from portal serves a NEPA focus and would be incorporated into an EA/EIS
4. Data portal incorporated into BOEM guidelines, FERC licensing and other permitting/licensing processes

The following is a summary of the responses to the pre-workshop survey.

General support for all four options: The agencies expressed some support for all four options, recognizing they are not mutually exclusive. Agencies also noted that any option would have to be consistently implemented and that the manner of incorporation into specific agency guidelines/processes would be determined on an individual agency basis.

Pre-application and screening: There was a preference for using the data portal as a screening tool that could increase efficiency and provide context early in project development. Many responses focused on how this would be implemented – voluntary, encouraged, recommended, or required – and through what mechanisms (see below).

NEPA: There was some support for using the data portal in NEPA since NEPA already provides a mechanism for inter-agency coordination and may be most consistent with the intent of a regional plan to provide guidance to agency decisions under their own authorities. The portal might also help inform alternatives and in the identification of cooperating agencies. The portal team or representatives could be invited to inform scoping meetings relevant to EA/EIS development.

Agency guidelines: Agencies responded that it is up to the individual agencies whether and how they incorporate the portal into their specific authorities, noting that it is easier to incorporate into guidelines than into regulations. BOEM expressed an interest in incorporating the data portal into its guidelines to help identify site-specific issues that might need to be further addressed.

How to implement. Most responses focused on how use of the portal would be implemented, especially the degree to which it is required (by individual agencies since the RPH cannot require activities) versus voluntary. Most noted existing requirements for “best available data” under NEPA and specific regulations, but also questioned the existence of agency authority to require the use of the portal (i.e., through what specific mechanisms, recognizing the need for multiple mechanisms given the lead agencies for the four types of projects under consideration). Commenters suggested that incorporation into guidelines or encouraging voluntary use may be more appropriate.

Long term maintenance of portal. Most responses noted that incorporating the use of the portal into decision-making will require a long term commitment to the maintenance of the portal and the datasets. Some discussion of this topic has already occurred and will continue, so we suggest assuming, for now, that there will be a long term solution for the portal in order to focus on how it can be used in decision-making.

Data/Functionality: In order to use the portal in any of the options above, further review of the data, data gaps, and specific needs of different regulatory programs would be necessary. While there was some support for considering how the portal would provide data/functionality specific to the four different types of projects, many noted that data gaps would have to be filled and there would have to be consideration of the data needed for different agencies under different authorities. Some discussion of this topic has already occurred with individual agencies, with more likely to come.

Site specific use: Many agencies noted that the portal cannot support many site specific assessments due to the resolution of the data (regional and geospatial versus site-specific and varied in its kind) and that it would also not be the only source used during screening or pre-application phase.

Based on the responses provided, and the general charge from the RPB to consider the potential use(s) of the data portal as a tool to enhance decision-making effectiveness, the

team suggests considering the utility of the data portal across three different “stages” in project review – pre-application/scoping, screening/consideration of alternatives, and guidance regarding decision-making – recognizing the increasing data and experience (general sophistication) necessary with screening and guidance (see table below for visual representation of this concept).

Data Portal Support for Decision-Making

Data Portal “Size”	Utility*	How to Implement*
Modest	Pre-Application	Voluntary vs Required; Suggested in individual agency guidance; Possible MOUs among agencies
Medium	Screening	MOU on process among agencies for coordination possible; Direction to applicants from individual agency policies and guidance
Comprehensive	Guidance	MOU on substance: integrate agencies use of data to support plan management standard (impact assessment)

Increasing data, experience, & coordination
↓

* Straw examples only. “Utility” represents a continuum; terms are representative.

Summary of Pre-Workshop Survey on Interagency Coordination and Communication

To initiate informed discussion, NROC develop the following background materials. In a pre-workshop, attendees were asked to consider the following options (and specific questions under each option).

1. Expand upon existing mechanisms such as COE joint permitting, BOEM-state Wind Energy Task Forces, etc. to serve as coordinating mechanism
2. Enhanced use of NEPA provisions, for example those regarding lead and cooperating agencies, and/or approaches to conducting NEPA (such as the COE Highway Methodology), to enhance coordination

3. Incorporation of regional issues into federal guidelines related to the review of specific types of projects

The feedback received on these three options in the pre-workshop survey, and the questions posed for each, varied widely. For example, feedback on Option 1 (expanded use of existing mechanisms) included:

- A feeling that existing mechanisms were not sufficient, and that the need is to develop something new, but at the same time, concern related to adding an additional layer of process
- Some support for focused commitment on enhanced use of pre-application meetings as a coordination vehicle, pointing to existing practices to note that that already happens for some projects, and also a suggestion that such a commitment should be “optional” for a project proponent

In a similar fashion, feedback on Option two (NEPA provisions) included a range of opinions, such as:

- Support for the expanded use of the lead/cooperating agency provisions and the application of the Highway Methodology from a couple of responses, but concern with the feasibility and practicality of such an approach from others based on concerns over workload, schedules, staffing time, etc.
- Suggestion that other areas of efficiency could be explored within an overall NEPA context, but that might be most appropriate to do so on a lead agency-by-lead agency basis (recognizing the different leads for the four types of projects)

And finally, feedback on Option 3 (focus on federal guidelines) was mixed, including reactions such as:

- Reminder that the RPB and the regional ocean plan itself, can provide guidance, but that it is ultimately up to individual agencies to develop and implement their guidelines (noting that BOEM in particular indicated interest in pursuing this issue)

In summary, in contrast to the responses directly related to the Northeast ocean data portal, there was a wider range of opinions on the potential opportunities for further discussion. In part, this is not that surprising since, to date, there has been far less discussion of topics beyond the Northeast ocean data portal.

Appendix B: Initial Identification of Coordination Issues and Ideas

NEPA SCOPING:

All Projects

- Suggestion: Pilot use of Northeast ocean data portal during scoping
- Suggestion: Combined discussion of NEPA/Permitting issues in early coordination mtg.
- Observation: NEPA scoping works well when there's a coordinated agency mtg. with the applicant
- Suggestion: Regionally "standardized" MOU regarding NEPA process, elements:
 - Notice to agencies
 - Designated agency point of contact
 - Concurrent review, as practical
 - Early identification of review and permit requirements
 - Objective: Unified environmental review document useful for multiple decisions

Energy Projects

- Start earlier in inter-agency communications on projects

Sand Projects

- Obtain regional input to coastal needs for and potential conflicts with using offshore sand sources

NEPA ROD/FONSI:

All Projects

- Opportunity: Convene regular meetings of cooperating agencies to expedite review

Sand Projects

- Agency agreement on extent of NEPA documentation/level of analysis needed

PERMIT PRE-APPLICATION

All Projects

- Suggestion: Better outreach and coordination with maritime industry through USCG:
 - Port Operator Meetings
 - Harbor Safety Committees
 - Industry associations
- Formalize pre-application meeting requirements

Aquaculture

- Identification of DoD review for operational impacts

- Pre-identifying agency staff who would comprise review teams for differential types of projects in different parts of N.E. region
- Long-line aquaculture: Need a better understanding of typical gear and practices and the potential effects on ESA species.

Sand

- BOEM/USACE MOU on lease/agreement time processing + schedule
- Identify offshore areas that can be used for sand mining from a resource perspective
- Identify different substrate types available for extraction from a resource perspective

PERMIT ISSUANCE

All

- Regulatory agencies need to be flexible with agreed upon review timeframes (e.g. give more time) when more data/information becomes available
- What works: Fostering a culture of information exchange through task forces rather than voting yes/no

Energy

- Issue for coordination: education of resource agencies on technology to better inform consultation mitigation

Sand

- BOEM/USACE negotiations on lease/agreement stipulations (many derived from other consultation processes)
- Have regional discussion on parameters for mitigation + monitoring for offshore sand extraction + use

DECISION APPEALS

- Opportunity: Collaborate with other agencies on issues of judicial remand

OTHER

All

- CZMA – Federal Consistency: CZMA Regulations vehicle for administrative efficiencies to pre-determine some activities as consistent with state programs –eliminating later review and compliance and Federal Consistency information needs
- Opportunity: Regular interagency calls (monthly/quarterly) that allow for information sharing on: new proposals, new technologies, updates to portal, review where projects are in pipeline etc.
- Analysis/understanding of ancillary impacts associate with the project

Aquaculture

- Need for NMFS/ACE work group to identify practical way to coordinate review of aquaculture – EEZ permit appeal
- Siting concerns evaluated by USCG prior to issuance as evolution of private aids to navigation

Energy

- Greater breadth of cross agency/functional expertise among staff (no mile deep + inch wide)
- Follow up on completed/constructed projects for permit compliance + Northeast ocean data portal feed-back (e.g., monitoring data)

Appendix C: Workshop Agenda

RPB Agency Workshop

April 14, 2014

**100 Cambridge Street, 2nd Floor, Conference Room A
Boston, MA**

Relevant RPB Goal: Effective Decision Making

Key Words: Data, data uses, coordination, communication, interagency, process, efficiency

Intent: Generating and honing ideas

Decision Point: Regional Planning Body, November 2014

Objectives:

4. Generate, review, and refine options for achieving Effective Decision Making goal, with sufficient detail to obtain stakeholder input in subsequent outreach.
5. Understand the process on advancing this RPB goal through the Nov 2014 RPB meeting
6. Identify immediate next steps for internal discussion

Groundrule for the Day:

- Think expansively and with creativity, so ideas and options out of the box are welcome and encouraged.

Materials

- Agenda
- Background document for each the morning session on the Data Portal and the afternoon session on coordination

Schedule

10:00 am Welcome + Introductions

10:30 Potential use of data portal

- Overview of key issues, questions, and findings from pre-meeting survey
 - *NROC staff*
- For three possible “stages” where the data portal might be quite useful
 - pre- application, screening, and guidance – let’s as a group answer

the following questions:

12:00 Break for Lunch (Provided)

12:30 Continued discussion of use of spatial data over lunch (if needed) 1:00 Discussion of possible areas and mechanisms for coordination

- Overview of key issues, questions, and findings from pre-meeting survey – *NROC staff*
- Participants will be asked to reflect on previous experience with three of the four types of projects (energy and related infrastructure, aquaculture, sand extraction for beach nourishment—omitting carbon sequestration because such a project has not yet been proposed, so there is a lack of experience). The question is *“Is there a particular aspect of these projects that is particularly problematic from an agency administrative review/process perspective”?*
- For these three types of projects, we will look to identify specific choke points in the review process (for both NEPA and permitting/licensing) and specific aspects of the review process that could benefit from enhanced coordination. Alternately, if there are specific examples of instances where coordination was enhanced, it would be useful to capture those as potential models to expand upon.

2:45 Break

3:00 Review of Day -- *NROC staff and facilitators*

3:15 Process going forward: *NROC staff*

3:30 Next Steps and Action Items: *Facilitator and NROC staff*

3:45 Adjourn

Appendix C: Participants

First Name	Last Name	Organization
Jim	Bennett	BOEM
Chris	Boelke	NOAA - NMFS
Todd	Burrowes	Maine Coastal Program
Laura	Cantral	Meridian
Bruce	Carlisle	MA CZM
Mel	Cote	EPA
Grover	Fugate	CRMC Rhode Island
Daniel	Hubbard	USCG
Ingrid	Irigoyen	Meridian
David	Kaiser	NOAA
Kevin	Kotelly	ACOE
Bob	LaBelle	BOEM
Kevin	Madley	NMFS
Harold	Mears	NMFS
Ivy	Mlsna	EPA
John	Moskal	EPA
Betsy	Nicholson	NOAA
Jeff	Reidenauer	BOEM
Jessica	Stromberg	BOEM
Tim	Timmerman	EPA
Chris	Tompsett	US Navy
Christian	Williams	NH Coastal Program

Schena, Cristeen

From: Nick Napoli <nnapoli@northeastoceancouncil.org>
Sent: Tuesday, May 06, 2014 4:33 PM
To: Betsy.Nicholson; Brian Thompson (brian.thompson@po.state.ct.us); Burrowes, Todd; Carlisle, Bruce (EEA); christopher.Boelke@Noaa.gov; David Kaiser; Grover Fugate; Howe, Dawn; Hubbard, Daniel CTR; Jeff Dillen (jeff.dillen@noaa.gov); Moskal, John; John Weber; Katie Lund; Kotelly, Kevin R NAE; LaBelle, Robert (Robert.LaBelle@boem.gov); Leyden, Kathleen; Lyons, Regina; Cote, Mel; Rick Getchell (rgetchell@allnationsconsulting.us); stephen.bowler@ferc.gov; Thomas Burack; Timmermann, Timothy; Tompsett, Christopher G CIV NUWC NWPT; christian.williams@des.nh.gov; Kevin Madley - NOAA Federal; Jessica Stromberg (jessica.stromberg@boem.gov); Bennett, James; Jeffrey Reidenauer; harry.mears@noaa.gov
Cc: Deerin Babb-Brott; Pat Field (pfield@cbuilding.org); lcantral@merid.org; Ingrid Irigoyen
Subject: NE Ocean Planning Interagency Coordination Workshop Summary
Attachments: NEOceanPlanning_InterAgencyMtg_Apr14-2014Summary.docx

Hi,

Thanks to CBI and SeaPlan, a summary of the April 14th workshop is attached. Thanks to all of you for your participation. Please let us know if you have any comments.

In the coming weeks, Deerin and the SeaPlan team will begin reaching out to individual states and agencies to schedule meetings for later this month and June to build on some of these ideas about the use of the data portal in decision making and other opportunities for enhanced agency coordination. Please expect to be contacted in the next few weeks.

Lastly, we plan to provide an update on this work at the June 26th RPB meeting and may be contacting some of you for assistance with that.

Let me know if you have any questions.

Thanks,
Nick

Nicholas Napoli
Northeast Regional Ocean Council
518.524.4685

Schena, Cristeen

From: McCoy, Angel <angel.mccoy@boem.gov>
Sent: Monday, May 05, 2014 10:40 AM
To: Cooke, Donald
Cc: Angel McCoy
Subject: Cape Wind Energy Project General Conformity Determination

Hello Donald,

I am the Air Quality subject matter expert for **BOEM's** Renewable Energy Programs. You may be aware, but the Cape Wind Energy Project is likely to move their staging location from Quonset, RI to New **Bedford**, MA. I am contacting you because this move would require **BOEM** (me) to do a new Conformity Determination as the previous determination would no longer be valid ([http://yosemite.epa.gov/oa/eab_web_docket.nsf/filings%20by%20appeal%20number/1ed8b2f289e44383852578330062a8e9/\\$file/petition%20for%20review%20--%20appendix%20d...1.04.pdf](http://yosemite.epa.gov/oa/eab_web_docket.nsf/filings%20by%20appeal%20number/1ed8b2f289e44383852578330062a8e9/$file/petition%20for%20review%20--%20appendix%20d...1.04.pdf)). Would I submit the document to you, if not, then who should be my point of contact at EPA?

I have a few other quick questions once I confirm my point of contact. Feel free to email me or call me at 240.205.3414.

Thank you and I look forward to hearing from you.
Angel

--

Angel M. McCoy

Meteorologist, Environmental Branch

Office of Renewable Energy Programs

Bureau of Ocean Energy Management

703-787-1758

Angel.McCoy@boem.gov

Schena, Cristeen

From: Curley, Michael
Sent: Wednesday, April 30, 2014 3:47 PM
To: McDonnell, Ida
Subject: FW: APNS FOIA re: Cape Wind - partial denial letter
Attachments: CapeWindFOIA005971 - partial denial letter.pdf; Cape Wind FOIA - PrivLog.xlsx

Ida-

Here's what I sent to the Alliance's lawyer . . .

From: Curley, Michael
Sent: Wednesday, April 30, 2014 12:47 PM
To: Baur, Don (Perkins Coie)
Cc: Schena, Cristeen; 'Sandy Taylor'
Subject: APNS FOIA re: Cape Wind - partial denial letter

Mr. Baur-

I believe Cris Schena has already sent Audra Parker (via email) the partial denial letter and privilege logs related to this FOIA request, but I am forwarding them on to you now just in case.

*Michael Curley
U.S. EPA New England
Office of Regional Counsel
5 Post Office Square, Suite 100
Mailcode: ORA18-1
Boston, MA 02109-3912
(617) 918-1623*

From: Thakar, Nidhi (Perkins Coie) [<mailto:nthakar@perkinscoie.com>]
Sent: Monday, March 24, 2014 6:20 PM
To: Curley, Michael
Cc: Schena, Cristeen; Baur, Don (Perkins Coie); 'Sandy Taylor'
Subject: RE: APNS FOIA re: Cape Wind

Michael,

Thanks for confirming what was discussed on our call earlier today. I have cc-ed my supervisor, Don Baur. After Friday, please direct any emails to him and Sandy regarding EPA's FOIA production.

Best,

Nidhi

Nidhi J. Thakar | **Perkins Coie LLP**
PHONE: 202.654.6242
FAX: 202.654.9942
E-MAIL: nthakar@perkinscoie.com

From: Curley, Michael [<mailto:Curley.Michael@epa.gov>]
Sent: Monday, March 24, 2014 5:22 PM

To: Thakar, Nidhi (Perkins Coie)
Cc: Schena, Cristeen
Subject: APNS FOIA re: Cape Wind

Hi Nidhi-

Thanks again for agreeing to move the due date on the response to this FOIA request from March 31, 2014 to April 30, 2014. As we discussed, I will continue to provide rolling releases ahead of the new deadline as I review the 500 or so remaining documents.

*Michael Curley
U.S. EPA New England
Office of Regional Counsel
5 Post Office Square, Suite 100
Mailcode: ORA18-1
Boston, MA 02109-3912
(617) 918-1623*

IRS CIRCULAR 230 DISCLOSURE: To ensure compliance with Treasury Department and IRS regulations, we inform you that, unless expressly indicated otherwise, any federal tax advice contained in this communication (including any attachments) is not intended or written by Perkins Coie LLP to be used, and cannot be used by the taxpayer, for the purpose of (i) avoiding penalties that may be imposed on the taxpayer under the Internal Revenue Code or (ii) promoting, marketing or recommending to another party any transaction or matter addressed herein (or any attachments).

* * * * *

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UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION 1
5 POST OFFICE SQUARE, SUITE 100
BOSTON, MA 02109-3912

CERTIFIED MAIL – RETURN RECEIPT REQUESTED

April 29, 2014

Audra Parker, President and CEO
Alliance to Protect Nantucket Sound
4 Barnstable Road
Hyannis, MA 02601

Re: Freedom of Information Act Request No. EPA-R1-2013-005971

Dear Ms. Parker:

On April 25, 2013, you sent the Region 1 office of the United States Environmental Protection Agency ("EPA") a request for certain records under the Freedom of Information Act ("FOIA"). On May 21, 2013, EPA granted your organization a fee waiver.

To respond to your FOIA request, EPA Region 1 searched for responsive hard copy and electronic records. Over the course of the past year, our office has released approximately nine hundred documents in full—mostly via FOIAonline, but also via a number of emails. We have decided, however, to withhold other documents in whole or in part. Thus, Region 1 is partially denying your FOIA request. This decision is discussed in more detail below. My decision to withhold certain records (or parts of records) is based on the counsel and recommendations of Assistant Regional Counsel Michael Curley of EPA Region 1's Office of Regional Counsel, after input and recommendations from my staff within the Office of Ecosystem Protection. This letter concludes the Region's response.

I. Summary of Activity to Date

Over the past year, you have agreed to extend the statutory deadline for production, and we have provided rolling releases to you. Nidhi Thakar, your attorney with respect to this request, also agreed to narrow your request via a series of email messages sent to Michael Curley or former Assistant Regional Counsel Ronald Fein, principally on June 3, 2013, September 18, 2013, and February 10, 2014. We released the vast majority of records (approximately nine hundred) via FOIA online and notified you of these releases via letter. A smaller number of documents were also sent via e-mail by Ronald Fein to Sandy Taylor of your organization.

In the majority of cases we have released the entire record, while in a smaller number of others we have redacted certain material from the records because it is either exempt from disclosure under FOIA or not responsive to your FOIA request. Many of the

records that we have released were covered by the inter-agency/intra-agency deliberative process privilege or other privileges and could potentially have been withheld under FOIA Exemption 5, but Region 1 nevertheless exercised its discretion, consistent with Federal Government policy, to release these records to you.

II. Records Withheld from Release

As stated above, we have already released close to nine hundred records to you in full, and a smaller number in redacted form. We have decided, however, to withhold 344 records in full (comprising thousands of pages) that are potentially responsive to your request but are exempt from disclosure under FOIA. Among the records, and portions of records, being withheld are likely many duplicates or near-duplicate records, including many emails that are only slightly different from each other (*e.g.*, different recipients of the same email), emails that reflect different segments or phases in the development of longer email chains, and many drafts of the same documents with only small changes between them.

In conjunction with our current letter, we are providing two privilege logs: one listing the 344 electronic records that we are withholding in full and a second log listing the 33 records that we have released in part but from which we have redacted certain material under applicable FOIA exemptions. Of the records (or portions of records) that we are withholding, the vast majority are being withheld under Exemption 5 of FOIA. Exemption 5 applies to "[i]nter-agency or intra-agency memoranda or letters which would not be available by law to a party other than an agency in litigation with the affected agency." 40 C.F.R. § 2.105(a)(5). *See also* 5 U.S.C. § 552(b)(5). The majority of the items in this category are being withheld according to the attorney-client and/or attorney work product privileges; a slightly smaller (and in many cases overlapping) number are being withheld according to the inter-agency/intra-agency deliberative process privilege. In addition, seven documents have been redacted to obscure home phone numbers and personal email addresses and fifteen personnel-related records are being withheld in full under FOIA Exemptions 2 and 6. *See* 5 U.S.C. § 552(b)(2), (6); 40 C.F.R. § 2.105(a)(2), (6).

We hope the lists of withheld records are helpful to you. Please call Michael Curley if you have questions about them.

III. Right of Appeal

You may appeal this partial denial by addressing your written appeal to the National Freedom of Information Officer U.S. EPA, FOIA and Privacy Branch, 1200 Pennsylvania Avenue, N.W. (2822T), Washington, DC 20460 (U.S. Postal Service Only), FAX: (202) 566-2147, E-mail: hq.foia@epa.gov. Only items mailed through the United States Postal Service may be delivered to 1200 Pennsylvania Avenue, NW. If you are submitting your appeal via hand delivery, courier service or overnight delivery, you must address your correspondence to 1301 Constitution Avenue, N.W., Room 6416J, Washington, DC 20001. Your appeal must be made in writing, and it must be submitted no later than 30 calendar days from the date of this letter. The Agency will not consider

appeals received after the 30 calendar day limit. The appeal letter should include the FOI number or numbers listed above, as appropriate. For quickest possible handling, the appeal letter and its envelope should be marked "Freedom of Information Act Appeal."

Thank you for your cooperation.

Sincerely,

A handwritten signature in blue ink, appearing to read "Ken", with a long, sweeping horizontal line extending to the right.

Kenneth Moraff, Director
Office of Ecosystem Protection

Enclosure: Privilege Logs

cc: Cristeen Schena, FOIA Officer, EPA Region 1
Michael Curley, EPA Region 1, ORC
Ida McDonnell, EPA Region 1, OEP
EPA Headquarters FOIA Officer
Don Baur, Esq., Perkins Coie LLP

Privilege Log - Withheld Documents
Cape Wind FOIA - EPA-R1-FOIA-005971

Doc ID Beg	Email To	Email From	Exemption Status	Description
EPA-R1-FOIA-005971c-00000055			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Briefing document prepared for EPA managers, containing evaluations, opinions, and recommendations of EPA staff regarding the Cape Wind project and EPA activities related thereto.
EPA-R1-FOIA-005971-00008665			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Briefing document prepared for EPA managers, containing evaluations, opinions, and recommendations of EPA staff regarding the Cape Wind project and EPA activities related thereto.
EPA-R1-FOIA-005971-00006262			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Briefing document prepared for the Regional Administrator on topic of offshore wind development in New England to prepare RA for meeting with state and local officials in New Bedford; containing the evaluations, opinions, and recommendations of EPA personnel.
EPA-R1-FOIA-005971-00006265			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Briefing document prepared for the Regional Administrator on topic of offshore wind development in New England to prepare RA for meeting with state and local officials in New Bedford; containing the evaluations, opinions, and recommendations of EPA personnel.
EPA-R1-FOIA-005971-00010913			Deliberative Process; Attorney Client; Withhold; Ex. 5 - Civil Privileges	Briefing materials for Gina McCarthy in preparation for an OCS hearing, containing the opinions, evaluations, and recommendations of EPA staff and counsel.
EPA-R1-FOIA-005971-00009525			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Briefing materials prepared in anticipation of a meeting b//n EPA Administrator and state officials regarding the South Terminal project in New Bedford, containing the opinions and recommendations of EPA R1 managers in preparing the Administrator for the meeting.
EPA-R1-FOIA-005971-00010676			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft briefing document exchanged among EPA Region 1 staff discussing recommended options for the Regional Administrator regarding renewable energy development in Region 1; internal conversation reflecting the recommendations, advice, and deliberations of EPA staff not only as to the content of the final briefing document but also containing advice, recommendations, and opinions regarding regional activities in this area.
EPA-R1-FOIA-005971-00010171			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft briefing materials prepared in anticipation of a meeting b//n EPA Administrator and state officials regarding the South Terminal project in New Bedford, containing the opinions and recommendations of several EPA R1 staff and managers in creating a final briefing document and preparing the Administrator for the meeting, including a potential position/response.
EPA-R1-FOIA-005971-00010173			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft briefing materials prepared in anticipation of a meeting b//n EPA Administrator and state officials regarding the South Terminal project in New Bedford, containing the opinions and recommendations of several EPA R1 staff and managers in creating a final briefing document and preparing the Administrator for the meeting, including a potential position/response.
EPA-R1-FOIA-005971-00010175			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft briefing materials prepared in anticipation of a meeting b//n EPA Administrator and state officials regarding the South Terminal project in New Bedford, containing the opinions and recommendations of several EPA R1 staff and managers in creating a final briefing document and preparing the Administrator for the meeting, including a potential position/response.
EPA-R1-FOIA-005971-00010177			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft briefing materials prepared in anticipation of a meeting b//n EPA Administrator and state officials regarding the South Terminal project in New Bedford, containing the opinions and recommendations of several EPA R1 staff and managers in creating a final briefing document and preparing the Administrator for the meeting, including a potential position/response.
EPA-R1-FOIA-005971-00011203			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft briefing materials prepared in anticipation of a meeting b//n EPA Administrator and state officials regarding the South Terminal project in New Bedford, containing the opinions and recommendations of several EPA R1 staff and managers in creating a final briefing document and preparing the Administrator for the meeting, including a potential position/response.
EPA-R1-FOIA-005971-00010560			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft briefing materials prepared in anticipation of a meeting b//n EPA Administrator and state officials regarding the South Terminal project in New Bedford, containing the opinions and recommendations of several EPA R1 staff and managers in creating a final briefing document and preparing the Administrator for the meeting, including a potential position/response.

Privilege Log - Withheld Documents
Cape Wind FOIA - EPA-R1-FOIA-005971

Doc ID Beg	Email To	Email From	Exemption Status	Description
EPA-R1-FOIA-005971-00009521			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft briefing materials prepared in anticipation of a meeting b//n EPA Administrator and state officials regarding the South Terminal project in New Bedford, containing the opinions and recommendations of several EPA R1 staff and managers in creating a final briefing document and preparing the Administrator for the meeting.
EPA-R1-FOIA-005971-00009523			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft briefing materials prepared in anticipation of a meeting b//n EPA Administrator and state officials regarding the South Terminal project in New Bedford, containing the opinions and recommendations of several EPA R1 staff and managers in creating a final briefing document and preparing the Administrator for the meeting.
EPA-R1-FOIA-005971-00008928			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft briefing materials prepared in anticipation of a meeting between EPA Administrator and state officials regarding the South Terminal project in New Bedford. The document is predecisional because it predates the meeting and deliberative in that it is a draft document containing the opinions and recommendations of EPA R1 managers in preparing EPA Administrator on matters she may be questioned about and respond to.
EPA-R1-FOIA-005971-00009192			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft briefing materials prepared in anticipation of a meeting between EPA Administrator and state officials regarding the South Terminal project in New Bedford. The document is predecisional because it predates the meeting and deliberative in that it is a draft document containing the opinions and recommendations of EPA R1 managers in preparing EPA Administrator on matters she may be questioned about and respond to.
EPA-R1-FOIA-005971-00009519			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft briefing materials prepared in anticipation of a meeting between EPA Administrator and state officials regarding the South Terminal project in New Bedford. The document is predecisional because it predates the meeting and deliberative in that it is a draft document containing the recommendations of several EPA R1 managers in creating a final briefing document.
EPA-R1-FOIA-005971-00010701			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft briefing prepared in anticipation of a meeting b//n EPA Administrator and state officials regarding the South Terminal project in New Bedford, containing the opinions and recommendations of several EPA R1 staff and managers in creating a final briefing document and preparing the Administrator for the meeting, including a potential position/response.
EPA-R1-FOIA-005971-00010703			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft briefing prepared in anticipation of a meeting b//n EPA Administrator and state officials regarding the South Terminal project in New Bedford, containing the opinions and recommendations of several EPA R1 staff and managers in creating a final briefing document and preparing the Administrator for the meeting, including a potential position/response.
EPA-R1-FOIA-005971c-00000134			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft briefing prepared in anticipation of a meeting b//n EPA Administrator and state officials regarding the South Terminal project in New Bedford; containing the opinions, evaluations, and recommendations of several EPA R1 staff and managers in creating a final briefing document and preparing the Administrator for the meeting, including a potential position/response.
EPA-R1-FOIA-005971-00008744			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft briefing prepared in anticipation of a meeting b//n EPA Administrator and state officials regarding the South Terminal project in New Bedford; containing the opinions, evaluations, and recommendations of several EPA R1 staff and managers in creating a final briefing document and preparing the Administrator for the meeting, including a potential position/response.
EPA-R1-FOIA-005971-00011029			Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Draft document prepared by EPA counsel analyzing legal issues regarding OCS permits in anticipation of litigation and shared with other EPA counsel to solicit legal advice regarding the interpretation of certain provisions of the CAA and the Outer Continental Shelf Lands Act in the context of an OCS permit in Region 10.
EPA-R1-FOIA-005971-00010526			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft document sent for EPA staff to BOEMRE staff in response to request for comment and providing recommendations on draft language on the OCS permit for the BOEMRE Environmental Assessment.
EPA-R1-FOIA-005971-00011124			Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Draft Federal Register Notice announcing the final permit decision of EPA's OCS permit for Cape Wind. The document contains the opinions, advice, and recommendations of counsel on the content for the final notice.

Privilege Log - Withheld Documents
Cape Wind FOIA - EPA-R1-FOIA-005971

Doc ID Beg	Email To	Email From	Exemption Status	Description
EPA-R1-FOIA-005971-00011179			Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Draft final permit decision letter for OCS permit issued by another region based on final permit decision letter issued to Cape Wind Assocs.; containing comments and recommendations revealing the opinions and thought processes of counsel.
EPA-R1-FOIA-005971-00011183			Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Draft final permit decision letter for OCS permit issued by another region based on final permit decision letter issued to Cape Wind Assocs.; containing comments and recommendations revealing the opinions and thought processes of counsel.
EPA-R1-FOIA-005971-00011175			Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Draft final permit decision letter with recommended mark-ups reflecting thoughts and opinions of HQ counsel with respect to legal issues surrounding such letters.
EPA-R1-FOIA-005971-00009780			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft internal EPA briefing for the Regional Administrator regarding renewable energy development in Region 1, containing advice, recommendations, and opinions regarding regional activities in this area.
EPA-R1-FOIA-005971-00010679			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft internal EPA briefing for the Regional Administrator regarding renewable energy development in Region 1, containing advice, recommendations, and opinions regarding regional activities in this area.
EPA-R1-FOIA-005971-00010681			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft internal EPA briefing for the Regional Administrator regarding renewable energy development in Region 1, containing advice, recommendations, and opinions regarding regional activities in this area.
EPA-R1-FOIA-005971-00009038			Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Draft of a letter written by EPA staff during the pendency of the EAB appeal, including recommended revisions by EPA counsel, responding to an APNS letter requesting that the Region suspend the EPA OCS permit based on concerns about the location of the staging terminal for Cape Wind
EPA-R1-FOIA-005971c-00000093			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft of excerpt prepared by BOEMRE for the Environmental Assessment regarding the OCS Permit, with EPA comments, opinions, and recommendations.
EPA-R1-FOIA-005971c-00000096			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft of excerpt prepared by BOEMRE for the Environmental Assessment regarding the OCS Permit, with EPA comments, opinions, and recommendations.
EPA-R1-FOIA-005971c-00000117			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft of excerpt prepared by BOEMRE for the Environmental Assessment regarding the OCS Permit, with EPA comments, opinions, and recommendations.
EPA-R1-FOIA-005971-00008703			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft of excerpt prepared by BOEMRE for the Environmental Assessment regarding the OCS Permit, with EPA comments, opinions, and recommendations.
EPA-R1-FOIA-005971-00008706			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft of excerpt prepared by BOEMRE for the Environmental Assessment regarding the OCS Permit, with EPA comments, opinions, and recommendations.
EPA-R1-FOIA-005971-00008727			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Draft of excerpt prepared by BOEMRE for the Environmental Assessment regarding the OCS Permit, with EPA comments, opinions, and recommendations.
EPA-R1-FOIA-005971c-00000157			Deliberative Process; Attorney Client; Withhold; Ex. 5 - Civil Privileges	Early draft of EPA's Draft Determination of Compliance with CWA Section 404 and Section 10 of the Rivers and Harbors Act for the South Terminal Project containing notes of EPA counsel.
EPA-R1-FOIA-005971c-00000161			Deliberative Process; Attorney Client; Withhold; Ex. 5 - Civil Privileges	Early draft of EPA's Draft Determination of Compliance with CWA Section 404 and Section 10 of the Rivers and Harbors Act for the South Terminal Project and containing notes of EPA counsel.
EPA-R1-FOIA-005971c-00000187			Deliberative Process; Attorney Client; Withhold; Ex. 5 - Civil Privileges	Early draft of EPA's Draft Determination of Compliance with CWA Section 404 and Section 10 of the Rivers and Harbors Act for the South Terminal Project and containing notes of EPA counsel.
EPA-R1-FOIA-005971c-00000188			Deliberative Process; Attorney Client; Withhold; Ex. 5 - Civil Privileges	Early draft of EPA's Draft Determination of Compliance with CWA Section 404 and Section 10 of the Rivers and Harbors Act for the South Terminal Project and containing notes of EPA counsel.
EPA-R1-FOIA-005971-00008767			Deliberative Process; Attorney Client; Withhold; Ex. 5 - Civil Privileges	Early draft of EPA's Draft Determination of Compliance with CWA Section 404 and Section 10 of the Rivers and Harbors Act for the South Terminal Project and containing notes of EPA counsel.
EPA-R1-FOIA-005971-00008771			Deliberative Process; Attorney Client; Withhold; Ex. 5 - Civil Privileges	Early draft of EPA's Draft Determination of Compliance with CWA Section 404 and Section 10 of the Rivers and Harbors Act for the South Terminal Project and containing notes of EPA counsel.
EPA-R1-FOIA-005971-00008797			Deliberative Process; Attorney Client; Withhold; Ex. 5 - Civil Privileges	Early draft of EPA's Draft Determination of Compliance with CWA Section 404 and Section 10 of the Rivers and Harbors Act for the South Terminal Project and containing notes of EPA counsel.

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EPA-R1-FOIA-005971-00008798			Deliberative Process; Attorney Client; Withhold; Ex. 5 - Civil Privileges	Early draft of EPA's Draft Determination of Compliance with CWA Section 404 and Section 10 of the Rivers and Harbors Act for the South Terminal Project and containing notes of EPA counsel.
EPA-R1-FOIA-005971-00005306			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Internal briefing from EPA R1 staff to Regional Administrator providing updates on offshore wind issues in New England to prepare RA for meeting w/ state and local officials in New Bedford; containing the opinions, evaluations, and recommendations of staff.
EPA-R1-FOIA-005971-00009725			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Internal briefing paper prepared by R1 for HQ.
EPA-R1-FOIA-005971-00009740			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Internal briefing paper prepared by R1 for HQ.
EPA-R1-FOIA-005971-00009744			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Internal briefing paper prepared by R1 for HQ.
EPA-R1-FOIA-005971-00009370			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Internal draft of a memo from EPA R1 air modeler to R1 manager analyzing the effect of the Cape Wind project on local air quality.
EPA-R1-FOIA-005971-00010990			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Internal draft of a memo from EPA R1 air modeler to R1 manager analyzing the effect of the Cape Wind project on local air quality.
EPA-R1-FOIA-005971c-00000116			Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Internal draft of letter for Regional Administrator's signature being prepared by EPA counsel and staff during pendency of the EAB appeal in response to 3/17/11 APNS letter.
EPA-R1-FOIA-005971c-00000145			Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Internal draft of letter for Regional Administrator's signature being prepared by EPA counsel and staff during pendency of the EAB appeal in response to 3/17/11 APNS letter.
EPA-R1-FOIA-005971-00008726			Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Internal draft of letter for Regional Administrator's signature being prepared by EPA counsel and staff during pendency of the EAB appeal in response to 3/17/11 APNS letter.
EPA-R1-FOIA-005971-00008755			Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Internal draft of letter for Regional Administrator's signature being prepared by EPA counsel and staff during pendency of the EAB appeal in response to 3/17/11 APNS letter.
EPA-R1-FOIA-005971-00009042			Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Internal draft of letter for Regional Administrator's signature being prepared by EPA counsel and staff during pendency of the EAB appeal in response to 3/17/11 APNS letter.
EPA-R1-FOIA-005971-00010868			Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Internal draft of letter for Regional Administrator's signature being prepared by EPA counsel and staff during pendency of the EAB appeal in response to 3/17/11 APNS letter.
EPA-R1-FOIA-005971-00010870			Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Internal draft of letter for Regional Administrator's signature being prepared by EPA counsel and staff during pendency of the EAB appeal in response to 3/17/11 APNS letter.
EPA-R1-FOIA-005971-00005791			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Internal draft of powerpoint presentation on Renewable Energy and Contaminated Sites to be presented at Environmental Business Council by Deputy Regional Administrator, containing the comments, advice, and recommendations of EPA staff.
EPA-R1-FOIA-005971-00005793			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Internal draft of remarks on Renewable Energy and Contaminated Sites to be made at Environmental Business Council by Deputy Regional Administrator, containing the comments, advice, and recommendations of EPA staff.
EPA-R1-FOIA-005971-00005798			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Internal draft of remarks on Renewable Energy and Contaminated Sites to be made at Environmental Business Council by Deputy Regional Administrator, containing the comments, advice, and recommendations of EPA staff.
EPA-R1-FOIA-005971-00006260			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Internal draft of remarks on Renewable Energy and Contaminated Sites to be made at Environmental Business Council by Deputy Regional Administrator, containing the comments, advice, and recommendations of EPA staff.
EPA-R1-FOIA-005971c-00000148			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Internal EPA briefing prepared for the Regional Administrator regarding energy issues in R1; containing the opinions, evaluations, and recommendations of EPA staff.
EPA-R1-FOIA-005971-00008758			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Internal EPA briefing prepared for the Regional Administrator regarding energy issues in R1; containing the opinions, evaluations, and recommendations of EPA staff.
EPA-R1-FOIA-005971-00010455			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Internal EPA draft briefing document being prepared ahead of 2011 White House Tribal Nations Conference and summarizing a range of issues relevant to the conference, EPA's OCS permit for Cape Wind being only one of many, and containing recommendations on potential positions/responses.

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EPA-R1-FOIA-005971-00010467			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Internal EPA draft briefing document being prepared ahead of 2011 White House Tribal Nations Conference and summarizing a range of issues relevant to the conference, EPA's OCS permit for Cape Wind being only one of many, and containing recommendations on potential positions/responses.
EPA-R1-FOIA-005971-00009501			Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Internal EPA draft briefing document being prepared ahead of 2011 White House Tribal Nations Conference and summarizing a range of issues relevant to the conference, EPA's OCS permit for Cape Wind being only one of many.
EPA-R1-FOIA-005971-00010813			Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Legal memo prepared by EPA legal intern at direction of EPA counsel analyzing legal issues raised in APNS reply brief.
EPA-R1-FOIA-005971c-00000137			Attorney Client; Withhold; Ex. 5 - Civil Privileges	Legal memo prepared by EPA legal intern at direction of EPA counsel analyzing legal issues regarding emission reduction plan for Cape Wind and providing legal advice
EPA-R1-FOIA-005971-00011126			Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Legal memo prepared by EPA legal intern at direction of EPA counsel analyzing legal issues regarding emissions reduction plan for Cape Wind and providing legal advice.
EPA-R1-FOIA-005971-00008747			Attorney Client; Withhold; Ex. 5 - Civil Privileges	Legal memo prepared by legal intern at the direction of EPA counsel analyzing legal issues regarding an emission reduction plan for Cape Wind and containing legal advice
EPA-R1-FOIA-005971-00008728			Attorney Client; Withhold; Ex. 5 - Civil Privileges	Legal Memorandum prepared by EPA legal intern at direction of EPA Counsel and analyzing legal issues regarding emission reduction credits
EPA-R1-FOIA-005971c-00000118			Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Memo from EPA legal intern to EPA counsel analyzing legal issues regarding emission offsets
EPA-R1-FOIA-005971c-00000143			Deliberative Process; Withhold; Ex. 5 - Civil Privileges; Ex. 6 – Personal Privacy; Ex. 2 – Personnel Rules & Practices	personnel award recommendation
EPA-R1-FOIA-005971-00008753			Deliberative Process; Withhold; Ex. 5 - Civil Privileges; Ex. 6 – Personal Privacy; Ex. 2 – Personnel Rules & Practices	Personnel award recommendation
EPA-R1-FOIA-005971-00006104			Deliberative Process; Withhold; Ex. 5 - Civil Privileges; Ex. 6 – Personal Privacy; Ex. 2 – Personnel Rules & Practices	Personnel award recommendation
EPA-R1-FOIA-005971-00006140			Deliberative Process; Withhold; Ex. 5 - Civil Privileges; Ex. 6 – Personal Privacy; Ex. 2 – Personnel Rules & Practices	personnel award recommendation
EPA-R1-FOIA-005971-00005296			Deliberative Process; Withhold; Ex. 5 - Civil Privileges; Ex. 6 – Personal Privacy; Ex. 2 – Personnel Rules & Practices	personnel award recommendation
EPA-R1-FOIA-005971-00005167			Deliberative Process; Withhold; Ex. 5 - Civil Privileges; Ex. 6 – Personal Privacy; Ex. 2 – Personnel Rules & Practices	personnel award recommendation
EPA-R1-FOIA-005971-00005180			Deliberative Process; Withhold; Ex. 5 - Civil Privileges; Ex. 6 – Personal Privacy; Ex. 2 – Personnel Rules & Practices	personnel award recommendation
EPA-R1-FOIA-005971-00005191			Deliberative Process; Withhold; Ex. 5 - Civil Privileges; Ex. 6 – Personal Privacy; Ex. 2 – Personnel Rules & Practices	personnel award recommendation
EPA-R1-FOIA-005971-00008960			Deliberative Process; Withhold; Ex. 5 - Civil Privileges; Ex. 6 – Personal PrivacyDeliberative Process; Withhold; Ex. 5 - Civil Privileges; Ex. 6 – Personal Privacy; Ex. Deliberative Process; Withhold; Ex. 5 - Civil Privileges; Ex. 6 – Personal Privacy; Ex. 2 – Personnel Rules & Practices	personnel award recommendation
EPA-R1-FOIA-005971-00005840			Withhold; Ex. 6 – Personal Privacy	personnel evaluation
EPA-R1-FOIA-005971-00004958			Deliberative Process; Withhold; Ex. 5 - Civil Privileges; Ex. 6 – Personal Privacy; Ex. 2 – Personnel Rules & Practices	Powerpoint slideshow used at a meeting of the Region 1 Office of Ecosystem Protection ("OEP") Awards Board to discuss nominations from OEP prior to voting for 2012 personnel awards
EPA-R1-FOIA-005971-00011147			Deliberative Process; Withhold; Ex. 5 - Civil Privileges; Ex. 6 – Personal Privacy; Ex. 2 – Personnel Rules & Practices	recommendation for personnel award
EPA-R1-FOIA-005971-00011149			Withhold; Ex. 6 – Personal Privacy; Ex. 2 – Personnel Rules & Practices	Recommendation for personnel award

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EPA-R1-FOIA-005971-00009722	Christopher Boelke	Elizabeth Higgins	Deliberative Process; Attorney Client; Withhold; Ex. 5 - Civil Privileges	Emails b//n BOEMRE and EPA staff summarizing ealier inter-agency deliberations related to the preparation of the Environmental Assessment by BOEMRE and discussing legal advice of agency counsel.
EPA-R1-FOIA-005971-00010525	Angel McCoy	Ida McDonnell	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Emails between BOEMRE staff and EPA staff requesting comments and providing recommendations on draft language on the OCS permit fo the Environmental Assessment.
EPA-R1-FOIA-005971-00011112	Alexander Fidis	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys discussing and analyzing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00008922	Ann Williams	Carl Dierker	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Email chain among EPA Regional Counsel, managers and counsel providing draft internal briefing for Regional Administrator on South Terminal Project in New Bedford to prepare RA for meeting w/ state and local officials in New Bedford; requesting input and containing the opinions, evaluations, and recommendations of staff.
EPA-R1-FOIA-005971-00011178	Ann Williams	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys discussing and analyzing legal issues associated with final permit decisions and making recommendations.
EPA-R1-FOIA-005971-00011025	Anna Wood	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among EPA counsel discussing and analyzing legal issues regarding OCS sources.
EPA-R1-FOIA-005971-00010911	Anna Wood	Phil Lorang	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain involving several EPA attorneys discussing the preparation of briefing materials for Gina McCarthy in prepartion for a hearing on OCS issues, containing the opinions, evaluations, and recommendations of EPA staff and counsel.
EPA-R1-FOIA-005971-00010887	Anna Wood	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain b//n EPA counsel discussing and analyzing legal issues related to OCS permitting.
EPA-R1-FOIA-005971-00009974	Anna Wood	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel discussing and analyzing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00010916	Anna Wood	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA counsel discussing and analyzing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00011094	Anna Wood; Christine Vineyard; Dave Bray; David Coursen; Dennis Abraham; Doug Hardesty; Emlyn Velez-Rosa; Gerardo Rios; Juliane Matthews; Julie Vergeront; Kathleen Cox; Kelly Fortin; Keri Powell; Liliana Villatora; Lionel MacKenzie; Lorie Schmidt; Lynn Hutchinson; Natasha Greaves; Sean Lakeman; Viorica Petriman; Phil Lorang	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys discussing and analyzing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00010892	Anna Wood; Christine Vineyard; Dave Bray; David Coursen; Dennis Abraham; Doug Hardesty; Emlyn Velez-Rosa; Sean Lakeman; Viorica Petriman	Julie Vergeront	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA R10 attorney to EPA attorneys in several regions analyzing legal issues in OCS permitting and requesting legal advice.
EPA-R1-FOIA-005971-00011125	Brendan McCahill	Michael Knapp	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA legal intern to EPA staff analyzing legal issues regarding emissions reduction plan for Cape Wind and providing legal advice.
EPA-R1-FOIA-005971-00011103	Brendan McCahill	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among EPA attorneys and EPA staff providing legal advice on issuing final permit decision.
EPA-R1-FOIA-005971-00009061	Brendan McCahill	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain from several EPA counsel to EPA staff providing legal advice regarding final permit decisions.
EPA-R1-FOIA-005971-00009049	Brendan McCahill	Ronald Fein	Attorney Client; Withhold; Ex. 5 - Civil Privileges	Emails b//n EPA counsel and staff discussing and analyzing legal issues in PSD permitting.
EPA-R1-FOIA-005971-00011039	Brendan McCahill	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n EPA counsel and staff discussing and analyzing the impact of certain regulations in PDS permitting.
EPA-R1-FOIA-005971-00010848	Brendan McCahill; Brian Hennessey	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA staff discussing preparation of the Region's Response to the Petition for Review in the EAB appeal, In re Cape Wind Assocs, LLC.
EPA-R1-FOIA-005971-00009045	Brendan McCahill; Donald Dahl; Brian Hennessey; Ida McDonnell; Dave Conroy	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain from EPA counsel describing EAB procedural changes and providing legal analysis and advice related thereto.
EPA-R1-FOIA-005971-00010888	Brendan McCahill; Donald Dahl; Brian Hennessey; Ida McDonnell; Dave Conroy	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails from EPA counsel describing EAB procedural changes and providing legal analysis and advice related thereto.

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EPA-R1-FOIA-005971-00010857	Brendan McCahill; Donald Dahl; Brian Hennessey; Ida McDonnell; Dave Conroy; Stephen Perkins; Carl Dierker; Tim Williamson; Brian Doster; Kristi Smith; Elliott Zenic; Samir Bukhari; Meghan MacKenzie; Sally Burt	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA managers, counsel, and staff discussing the development of the Region's Response to Petition in the EAB permit appeal.
EPA-R1-FOIA-005971-00009044	Brendan McCahill; Ida McDonnell; Dave Conroy	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA staff and managers discussing litigation strategy in the EAB appeal.
EPA-R1-FOIA-005971-00010878	Brendan McCahill; Ida McDonnell; Dave Conroy	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA staff discussing litigation strategy in the appeal before the EAB.
EPA-R1-FOIA-005971-00009076	Brendan McCahill; Timothy Timmermann	Ronald Fein	Attorney Client; Withhold; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA staff analyzing legal issues regarding COP requirements
EPA-R1-FOIA-005971-00011201	Brendan McCahill; Timothy Timmermann	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA staff analyzing legal issues related to a change in staging location.
EPA-R1-FOIA-005971-00011182	Brian Doster	Julie Vergeront	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among DOJ counsel and EPA counsel in multiple regions discussing and analyzing legal issues regarding final permit decisions.
EPA-R1-FOIA-005971-00011189	Brian Doster	Julie Vergeront	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among DOJ counsel and EPA counsel in multiple regions discussing and analyzing legal issues regarding final permit decisions.
EPA-R1-FOIA-005971-00011192	Brian Doster	Julie Vergeront	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among DOJ counsel and EPA counsel in multiple regions discussing and analyzing legal issues regarding final permit decisions.
EPA-R1-FOIA-005971-00011186	Brian Doster	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys discussing and analyzing legal issues associated with final permit decisions and making recommendations.
EPA-R1-FOIA-005971-00011188	Brian Doster	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys discussing and analyzing legal issues associated with final permit decisions and making recommendations.
EPA-R1-FOIA-005971-00010809	Brian Doster	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain between EPA R1 counsel and EPA HQ counsel requesting and providing legal advice on a draft of the Region's Response to the Petition for Review.
EPA-R1-FOIA-005971-00010810	Brian Doster	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain between EPA R1 counsel and EPA HQ counsel requesting and providing legal advice on a draft of the Region's Response to the Petition for Review.
EPA-R1-FOIA-005971-00011122	Brian Doster	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from R1 counsel to HQ counsel requesting legal advice regarding final permit decisions.
EPA-R1-FOIA-005971-00011128	Brian Doster	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n R1 counsel and HQ counsel discussing and analyzing legal issues regarding final permit decisions.
EPA-R1-FOIA-005971-00009385	Brian Hennessey	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain between EPA counsel and EPA staff discussing and analyzing possible arguments to be included in legal memorandum (Response to Petition) in the EAB permit appeal In re Cape Wind Assocs.
EPA-R1-FOIA-005971-00009388	Brian Hennessey	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain between EPA counsel and EPA staff discussing and analyzing possible arguments to be included in legal memorandum (Response to Petition) in the EAB permit appeal In re Cape Wind Assocs.
EPA-R1-FOIA-005971-00009392	Brian Hennessey	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA staff discussing and analyzing arguments in legal memorandum in the EAB permit appeal In re Cape Wind Assocs.
EPA-R1-FOIA-005971-00010827	Brian Hennessey	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA staff discussing preparation of the Region's Response to the Petition for Review in the EAB appeal, In re Cape Wind Assocs, LLC.
EPA-R1-FOIA-005971-00009588	Brian Hennessey	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA staff regarding preparation of the Region's Response to the Petition for Review in the EAB appeal revealing the opinions and thought processes of counsel.
EPA-R1-FOIA-005971-00010819	Brian Hennessey	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n EPA counsel and staff regarding preparation of the Region's Response to the Petition in the EAB appeal, discussing legal issues and revealing the thought processes and opinions of counsel.
EPA-R1-FOIA-005971-00010822	Brian Hennessey	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n EPA counsel and staff regarding preparation of the Region's Response to the Petition in the EAB appeal, discussing legal issues and revealing the thought processes and opinions of counsel.
EPA-R1-FOIA-005971-00010801	Brian Hennessey; Brendan McCahill; Donald Dahl	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA staff discussing preparation of the Region's Response to the Petition in the EAB appeal, In re Cape Wind Assocs., LLC.

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EPA-R1-FOIA-005971-00009020	Brian Hennessey; Brendan McCahill; Donald Dahl	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA staff discussing the Region's Response to Petition in the EAB permit appeal, In re Cape Wind Assocs., LLC
EPA-R1-FOIA-005971-00008926	Carl Deloi	Carl Dierker	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Email chain among EPA managers and counsel regarding draft briefing for Regional Administrator on South Terminal project in New Bedford to prepare RA for meeting with state and local officials in New Bedford; containing the evaluations, opinions, and recommendations of EPA personnel.
EPA-R1-FOIA-005971-00008923	Carl Deloi	Carl Dierker	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Email chain among EPA Regional Counsel, managers and counsel providing internal briefing for Regional Administrator on South Terminal Project in New Bedford to prepare RA for meeting w/ state and local officials in New Bedford; containing the opinions, evaluations, and recommendations of staff.
EPA-R1-FOIA-005971-00009191	Carl Dierker	Carl Dierker	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Email chain among EPA R1 staff and managers discussing the preparation of briefing materials for EPA Administrator on the South Terminal project in New Bedford, including recommendations for a meeting with state officials
EPA-R1-FOIA-005971-00009493	Carl Dierker	Cynthia Catri	Deliberative Process; Attorney Client; Withhold; Ex. 5 - Civil Privileges	Redacted portions are within email chain among EPA Regional Counsel, managers, staff, and other attorneys discussing preparations for, and results of, a meeting with Congressional staff, including legal advice and recommendations for follow-up.
EPA-R1-FOIA-005971-00009490	Carl Dierker	ElaineT Stanley	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Emails among EPA Regional Counsel, managers, staff, and other attorneys discussing preparations for, and results of, a meeting with Congressional staff, including legal advice and recommendations for follow-up.
EPA-R1-FOIA-005971-00010761	Carl Dierker	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA managers, counsel, and staff discussing the Region's Response to Petition in the EAB permit appeal and requesting legal advice.
EPA-R1-FOIA-005971-00010318	Carl Dierker	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA staff and other attorneys discussing the Region's draft Response to the Petition for Review.
EPA-R1-FOIA-005971-00010172	Carl Dierker	Stephen Perkins	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Emails between EPA manager and Regional Counsel regarding development of briefing materials for the Regional Administrator on South Terminal project in New Bedford to prepare RA for meeting w/ state and local officials.
EPA-R1-FOIA-005971-00010559	Carl Dierker	Stephen Perkins	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Emails between EPA manager and Regional Counsel regarding development of briefing materials for the Regional Administrator on South Terminal project in New Bedford to prepare RA for meeting w/ state and local officials.
EPA-R1-FOIA-005971-00009189	Carl Dierker; Stephen Perkins	Cynthia Greene	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Email from EPA staff to EPA Regional Counsel transmitting briefing material prepared for the Regional Administrator regarding past and future developments with respect to the Cape Wind project and containing the opinions and recommendations of staff.
EPA-R1-FOIA-005971-00009069	Carl Dierker; Tim Williamson; Brendan McCahill; Ida McDonnell; Dave Conroy; Donald Dahl; Heather Ross	Ronald Fein	Attorney Client; Withhold; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA counsel and staff providing legal analysis and legal advice regarding an EAB ruling in In re Shell Offshore.
EPA-R1-FOIA-005971-00011110	CarolAnn Siciliano; Shanita Loving	Tim Williamson	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from R1 Deputy Regional Counsel to HQ counsel discussing potential litigation.
EPA-R1-FOIA-005971-00011169	Cynthia Catri	Ann Williams	Deliberative Process; Attorney Client; Withhold; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys discussing public inquiry and formulating potential response.
EPA-R1-FOIA-005971-00009492	Cynthia Catri	Carl Dierker	Deliberative Process; Attorney Client; Withhold; Ex. 5 - Civil Privileges	Emails chain among EPA Regional Counsel, managers, staff, and other attorneys discussing preparations for, and results of, a meeting with Congressional staff, including recommendations and legal advice for follow-up.
EPA-R1-FOIA-005971-00009778	Cynthia Greene	John Moskal	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Email chain among several EPA R1 staff containing internal briefing materials for Regional Administrator on Cape Wind.
EPA-R1-FOIA-005971-00009186	Cynthia Greene	Stephen Perkins	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Email chain among EPA staff and managers compiling briefing materials for the Regional Administrator on Cape Wind.
EPA-R1-FOIA-005971-00009188	Cynthia Greene	Stephen Perkins	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Email chain among EPA staff and managers compiling briefing materials for the Regional Administrator on Cape Wind.
EPA-R1-FOIA-005971-00010556	Cynthia Greene	Stephen Perkins	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Email chain among EPA staff and managers compiling briefing materials for the Regional Administrator on Cape Wind.
EPA-R1-FOIA-005971-00010557	Cynthia Greene	Stephen Perkins	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Email chain among EPA staff and managers compiling briefing materials for the Regional Administrator on Cape Wind.

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Doc ID Beg	Email To	Email From	Exemption Status	Description
EPA-R1-FOIA-005971-00011164	Dave Bray	David Coursen	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain including multiple EPA attorneys discussing and analyzing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00011095	Dave Bray	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys discussing and analyzing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00011096	Dave Bray	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys discussing and analyzing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00011098	Dave Bray	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys discussing and analyzing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00009058	Dave Bray	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys in different regions discussing and analysing legal issues involved in OCS permitting in the context of an OCS permit in Region 10.
EPA-R1-FOIA-005971-00009060	Dave Bray	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys in different regions discussing and analysing legal issues involved in OCS permitting in the context of an OCS permit in Region 10.
EPA-R1-FOIA-005971-00009176	Dave Bray	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA staff discussing and analyzing possible arguments to be included in legal memorandum (Response to Petition) in the EAB permit appeal In re Cape Wind Assocs.
EPA-R1-FOIA-005971-00010791	Dave Conroy	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n EPA counsel and staff discussing legal issues in a draft of the Region's Response to the Petition for Review in the EAB appeal.
EPA-R1-FOIA-005971-00009184	Dave Conroy	Tim Williamson	Deliberative Process; Withhold; Ex. 5 - Civil Privileges; Ex. 6 – Personal Privacy; Ex. 2 – Personnel Rules & Practices	Email discussing potential personnel award recommendations
EPA-R1-FOIA-005971-00010890	Dave Deegan	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	redacted emails from EPA staff to EPA counsel requesting legal advice and containing deliberative recommendations.
EPA-R1-FOIA-005971-00010843	David Coursen	Julie Vergeront	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among EPA attorneys in several regions analyzing and discussing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00011037	David Coursen	Keri Powell	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys in different regions discussing and analyzing legal issues surrounding the interpretation of certain provisions of the CAA and the Outer Continental Shelf Lands Act in the context of an OCS permit in Region 10.
EPA-R1-FOIA-005971-00011162	David Coursen	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain involving multiple EPA attorneys discussing and analyzing legal issue in OCS permitting.
EPA-R1-FOIA-005971-00011076	David Coursen	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain involving multiple EPA counsel discussing and analyzing legal issues regarding OCS sources.
EPA-R1-FOIA-005971-00010866	David Coursen	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain involving multiple EPA counsel discussing and analyzing legal issues related to OCS sources.
EPA-R1-FOIA-005971-00011046	David Coursen; Phil Lorang	Julie Vergeront	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among EPA attorneys in several regions analyzing and discussing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00011049	David Coursen; Phil Lorang	Julie Vergeront	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among EPA attorneys in several regions analyzing and discussing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00010804	Donald Dahl	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA staff regarding preparation of the Region's initial filing in In re Cape Wind Assocs, LLC.
EPA-R1-FOIA-005971-00009572	Donald Dahl	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA staff regarding preparation of the Region's Response to the Petition for Review in the EAB appeal revealing the opinions and thought processes of counsel.
EPA-R1-FOIA-005971-00009590	Donald Dahl	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA staff regarding preparation of the Region's Response to the Petition for Review in the EAB appeal revealing the opinions and thought processes of counsel.
EPA-R1-FOIA-005971-00009025	Donald Dahl; Brendan Mccahill	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA staff discussing preparation of the Region's Response to the Petition for Review in In re Cape Wind Assocs., LLC and reflecting the thoughts and opinions of counsel.
EPA-R1-FOIA-005971-00010768	Donald Dahl; Brendan Mccahill	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA staff regarding preparation of the Region's initial filing in In re Cape Wind Assocs, LLC.
EPA-R1-FOIA-005971-00010825	Donald Dahl; Brendan Mccahill	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA staff regarding preparation of the Region's initial filing in In re Cape Wind Assocs, LLC.
EPA-R1-FOIA-005971-00009569	Donald Dahl; Brendan Mccahill	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA staff regarding preparation of the Region's Response to the Petition for Review in the EAB appeal revealing the opinions and thought processes of counsel.

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EPA-R1-FOIA-005971-00010749	Doug Hardesty	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among multiple EPA attorneys discussing and analyzing legal issues regarding OCS sources.
EPA-R1-FOIA-005971-00010901	Doug Hardesty	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n EPA counsel discussing and analyzing legal issues in PSD and OCS permitting.
EPA-R1-FOIA-005971-00009491	ElaineT Stanley	Cynthia Catri	Deliberative Process; Attorney Client; Withhold; Ex. 5 - Civil Privileges	Redacted portions are within email chain among EPA Regional Counsel, managers, staff, and other attorneys discussing preparations for, and results of, a meeting with Congressional staff, including legal advice and recommendations for follow-up.
EPA-R1-FOIA-005971-00009670	Elizabeth Higgins	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA managers, counsel, and staff discussing the Region's Response to Petition in the EAB permit appeal and requesting legal advice.
EPA-R1-FOIA-005971-00010758	Elizabeth Higgins	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA managers, counsel, and staff discussing the Region's Response to Petition in the EAB permit appeal and requesting legal advice.
EPA-R1-FOIA-005971-00010799	Elliott Zenick; Brian Doster	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA R1 counsel to EPA counsel in HQ requesting legal advice on development of the Region's Response to the Petition for Review in the EAB appeal.
EPA-R1-FOIA-005971-00010792	Elliott Zenick; Brian Doster	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n R1 counsel and HQ counsel regarding legal issues in the Region's draft Response to the Petition in the EAB appeal.
EPA-R1-FOIA-005971-00011160	Greg Dain	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Redacted portion is email from EPA counsel to EPA managers, staff and other attorneys analyzing legal import and implications of DC Cir. decision re FAA on EPA permits.
EPA-R1-FOIA-005971-00009986	Ida McDonnell	Dave Conroy	Withhold; Ex. 6 – Personal Privacy; Ex. 2 – Personnel Rules & Practices	Email chain regarding personnel award recommendation.
EPA-R1-FOIA-005971-00009990	Ida McDonnell; Brendan McCahill; Timothy Timmermann	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA staff regarding Jan. 2012 APNS letter to Salazar.
EPA-R1-FOIA-005971-00011197	Ida McDonnell; Brendan McCahill; Timothy Timmermann	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA staff regarding Jan. 2012 APNS letter to Salazar.
EPA-R1-FOIA-005971-00009495	Ira Leighton	Michael Stover	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Email from EPA R1 Indian Program Manager to R1 Deputy Regional Administrator transmitting, and recommending edits to, internal EPA draft briefing document being prepared ahead of 2011 White House Tribal Nations Conference summarizing a range of issues relevant to the conference, EPA's OCS permit for Cape Wind being only one of many.
EPA-R1-FOIA-005971-00010461	Ira Leighton	Micheal Stover	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Largely non-responsive email chain including EPA R1 Indian Program Manager recommending edits to an internal EPA draft briefing document being prepared ahead of 2011 White House Tribal Nations Conference summarizing a range of issues relevant to the conference, EPA's OCS permit for Cape Wind being only one of many.
EPA-R1-FOIA-005971-00010555	Ira Leighton	Michael Stover	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Largely non-responsive email chain including EPA R1 Indian Program Manager recommending edits to an internal EPA draft briefing document being prepared ahead of 2011 White House Tribal Nations Conference summarizing a range of issues relevant to the conference, EPA's OCS permit for Cape Wind being only one of many.
EPA-R1-FOIA-005971-00009468	Ira Leighton	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA managers summarizing the issues raised by petitioners in the EAB permit appeal and the Regions legal arguments in response.
EPA-R1-FOIA-005971-00010840	Ira Leighton	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to R1 Deputy Regional Administrator summarizing Region's Response to the Petition for Review in In re Cape Wind Assocs, LLC.
EPA-R1-FOIA-005971-00008959	James Owens; Carl Dierker; Susan Studlien	Joanna Jerison	Withhold; Ex. 6 – Personal Privacy; Ex. 2 – Personnel Rules & Practices	personnel award recommendation
EPA-R1-FOIA-005971-00011209	Joseph Siegel	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain involving several EPA counsel discussing and analyzing legal issues surrounding New Source Performance Standards.
EPA-R1-FOIA-005971-00011027	Julie Vergeront	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among EPA counsel discussing and analyzing legal issues regarding OCS sources.
EPA-R1-FOIA-005971-00011174	Julie Vergeront	Brian Doster	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among EPA regional and HQ counsel discussing and analyzing legal issues surrounding the issuance of final permit decision letters.
EPA-R1-FOIA-005971-00010907	Julie Vergeront	David Coursen	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n EPA counsel discussing and analyzing legal issues related to OCS sources.
EPA-R1-FOIA-005971-00011028	Julie Vergeront	Keri Powell	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys in different regions discussing and analyzing legal issues surrounding the interpretation of certain provisions of the CAA and the Outer Continental Shelf Lands Act in the context of an OCS permit in Region 10.

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EPA-R1-FOIA-005971-00011051	Julie Vergeront	Keri Powell	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys in different regions discussing and analyzing legal issues surrounding the interpretation of certain provisions of the CAA and the Outer Continental Shelf Lands Act in the context of an OCS permit in Region 10.
EPA-R1-FOIA-005971-00011084	Julie Vergeront	Keri Powell	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys in different regions discussing and analyzing legal issues surrounding the interpretation of certain provisions of the CAA and the Outer Continental Shelf Lands Act in the context of an OCS permit in Region 10.
EPA-R1-FOIA-005971-00011108	Julie Vergeront	Phil Lorang	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys discussing and analyzing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00010896	Julie Vergeront	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among multiple EPA attorneys discussing and analyzing legal issues regarding OCS sources.
EPA-R1-FOIA-005971-00011136	Julie Vergeront	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys discussing and analyzing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00011100	Julie Vergeront	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys discussing and analyzing legal issues regarding corresponding onshore area.
EPA-R1-FOIA-005971-00011074	Julie Vergeront	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain involving multiple EPA counsel discussing and analyzing legal issues regarding OCS sources.
EPA-R1-FOIA-005971-00011041	Julie Vergeront	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain involving several EPA counsel discussing and analyzing legal issues related to NESHAP.
EPA-R1-FOIA-005971-00010828	Julie Vergeront	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA R1 counsel to EPA R10 counsel seeking legal advice in responding to Petition for Review in EAB permit appeal (In re Cape Wind Assocs.)
EPA-R1-FOIA-005971-00010897	Julie Vergeront	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n EPA counsel discussing and analyzing legal issues in PSD and OCS permitting.
EPA-R1-FOIA-005971-00011040	Julie Vergeront	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails between EPA counsel discussing and analyzing legal issues related to NESHAP.
EPA-R1-FOIA-005971-00011043	Julie Vergeront	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails between EPA counsel discussing and analyzing legal issues related to NESHAP.
EPA-R1-FOIA-005971-00010833	Julie Vergeront; Ronald Fein	David Coursen	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain involving multiple EPA counsel discussing and analyzing legal issues related to OCS sources.
EPA-R1-FOIA-005971-00010766	Julie Walters	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain b//n EPA counsel analyzing legal issues regarding modeling for PSD and OCS permits.
EPA-R1-FOIA-005971-00010763	Julie Walters	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain from EPA counsel analyzing legal issues regarding modeling for PSD and OCS permits.
EPA-R1-FOIA-005971-00011123	Julie Walters	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n EPA counsel providing legal advice regarding final permit decisions.
EPA-R1-FOIA-005971-00010475	Karin Koslow	Michael Stover	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Largely non-responsive email from R1 Indian Program Manager to DC staff briefing her on issues that may be raised by R1 tribes at New England Tribal Leaders Fall 2012 Summit, the Cape Wind project being mentioned as one of them.
EPA-R1-FOIA-005971-00010484	Karin Koslow	Michael Stover	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Largely non-responsive email from R1 Indian Program Manager to DC staff briefing her on issues that may be raised by R1 tribes at New England Tribal Leaders Fall 2012 Summit, the Cape Wind project being mentioned as one of them.
EPA-R1-FOIA-005971-00008919	Kate Renahan	Carl Dierker	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Email from EPA Regional Counsel to EPA managers and counsel providing draft internal briefing for Regional Administrator on South Terminal Project in New Bedford to prepare RA for meeting w/ state and local officials in New Bedford; requesting input and containing the opinions, evaluations, and recommendations of staff.
EPA-R1-FOIA-005971-00009515	Kate Renahan	Carl Dierker	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Internal draft briefing for Regional Administrator on South Terminal project in New Bedford to prepare RA for meeting with state and local officials in New Bedford; containing the evaluations, opinions, and recommendations of EPA personnel.
EPA-R1-FOIA-005971-00011133	Kathleen Cox	David Coursen	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n EPA counsel providing legal advice for OCS permitting in R3.
EPA-R1-FOIA-005971-00011134	Kathleen Cox	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n EPA counsel providing legal advice for OCS permitting in R3.

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EPA-R1-FOIA-005971-00011022	Keri Powell	Anna Wood	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain from EPA counsel and EPA staff to R1 and R4 counsel requesting legal advice regarding the interpretation of the CAA and OCSLA in the context of an OCS permit in Region 10.
EPA-R1-FOIA-005971-00011079	Keri Powell	David Coursen	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain involving multiple EPA counsel discussing and analyzing legal issues related to OCS sources.
EPA-R1-FOIA-005971-00011057	Keri Powell	Julie Vergeront	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among EPA attorneys in several regions analyzing and discussing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00011032	Keri Powell	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among EPA counsel discussing and analyzing legal issues regarding OCS sources.
EPA-R1-FOIA-005971-00011036	Keri Powell	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among EPA counsel discussing and analyzing legal issues regarding OCS sources.
EPA-R1-FOIA-005971-00011085	Keri Powell	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys discussing and analyzing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00010783	Kristi Smith	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n R1 counsel and HQ counsel requesting and providing legal advice for the Region's Response to the Petition in the EAB appeal.
EPA-R1-FOIA-005971-00010787	Kristi Smith	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n R1 counsel and HQ counsel requesting and providing legal advice for the Region's Response to the Petition in the EAB appeal.
EPA-R1-FOIA-005971-00010789	Kristi Smith	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n R1 counsel and HQ counsel requesting and providing legal advice for the Region's Response to the Petition in the EAB appeal.
EPA-R1-FOIA-005971-00010790	Kristi Smith	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n R1 counsel and HQ counsel requesting and providing legal advice for the Region's Response to the Petition in the EAB appeal.
EPA-R1-FOIA-005971-00010432	Lois Adams	Michael Stover	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Largely non-responsive email from EPA R1 Indian Program Manager to R1 manager recommending edits to an internal EPA draft briefing document being prepared ahead of 2011 White House Tribal Nations Conference summarizing a range of issues relevant to the conference, EPA's OCS permit for Cape Wind being only one of many.
EPA-R1-FOIA-005971-00010879	Marilyn Kuray	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails from EPA counsel discussing litigation strategy in the appeal before the EAB.
EPA-R1-FOIA-005971-00009484	Mark Stein	Sheryl Rosner	Deliberative Process; Attorney Client; Withhold; Ex. 5 - Civil Privileges	Largely non-responsive emails b//n EPA attorney and staff providing legal advice related to enforcement.
EPA-R1-FOIA-005971-00010824	Meghan MacKenzie	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain between EPA counsel and EPA legal intern analysing and discussing legal issues in the Region's Response to the Petition in the EAB appeal.
EPA-R1-FOIA-005971-00010767	Meghan MacKenzie	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA legal intern regarding the preparation of the Region's Response to the Petition, revealing the opinions and thought processes of counsel.
EPA-R1-FOIA-005971-00010675	Mel Cote; Cynthia Greene; Regina Lyons; John Moskal	Timothy Timmermann	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Email chain among EPA Region 1 staff discussing recommended options for a draft briefing document for the Regional Administrator regarding renewable energy development in Region 1; internal conversation reflecting the recommendations, advice, and deliberations of EPA staff not only as to the content of the final briefing document but containing advice, recommendations, and opinions regarding regional activities in this area.
EPA-R1-FOIA-005971-00010428	Michael Stover	David Guest	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Emails b//n HQ and R1 staff regarding recommendations for future tribal consultations where tribal consultation re Cape Wind is raised as an example.
EPA-R1-FOIA-005971-00009489	Nancy Grantham	Carl Dierker	Deliberative Process; Attorney Client; Withhold; Ex. 5 - Civil Privileges	Emails from Regional Counsel to EPA managers, staff, and other attorneys discussing preparations for, and results of, a meeting with Congressional staff, including recommendations for follow-up.
EPA-R1-FOIA-005971-00010448	Nancy Grantham	Michael Stover	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Largely non-responsive email chain including EPA R1 Indian Program Manager recommending edits to an internal EPA draft briefing document being prepared ahead of 2011 White House Tribal Nations Conference summarizing a range of issues relevant to the conference, EPA's OCS permit for Cape Wind being only one of many.
EPA-R1-FOIA-005971-00009524	Nancy Grantham; Ira Leighton; Curt Spalding	Carl Dierker	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Email from EPA Regional Counsel to EPA managers, staff, and attorneys regarding for Regional Administrator on South Terminal project in New Bedford to prepare RA for meeting with state and local officials in New Bedford; containing the evaluations, opinions, and recommendations of EPA personnel.

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EPA-R1-FOIA-005971-00008927	Nancy Grantham; Ira Leighton; Curt Spalding	Carl Dierker	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Email from Regional Counsel to EPA managers and staff discussing briefing document developed for EPA Administrator in anticipation of meeting with state officials regarding the South Terminal project in New Bedford.
EPA-R1-FOIA-005971-00010895	Phil Lorang	Julie Vergeront	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among EPA attorneys in several regions analyzing and discussing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00011105	Phil Lorang	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys discussing and analyzing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00011107	Phil Lorang	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys discussing and analyzing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00010891	Phil Lorang	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n EPA counsel requesting, and providing, legal advice regarding procedures related to OCS permitting.
EPA-R1-FOIA-005971-00011114	Phil Lorang	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Ex. 5 - Civil Privileges	Emails between EPA counsel discussing and analyzing legal issues raised by proposed legislation.
EPA-R1-FOIA-005971-00011034	Phil Lorang	Viorica Petriman	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain involving multiple EPA attorneys discussing and analyzing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00011131	Phil Lorang; Christine Vineyard; Dave Bray; David Coursen; Dennis Abraham; Doug Hardesty; Emlyn Velez-Rosa; Gerardo Rios; Jeanhee Hong; Juliane Matthews; Julie Vergeront; Kelly Fortin; Keri Powell; Liliana Villatora; Lionel MacKenzie; Lynn Hutchinson; Natasha Greaves; Ronald Fein; Viorica Petriman	Kathleen Cox	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel in R3 to multiple EPA counsel requesting legal advice related to OCS in R3.
EPA-R1-FOIA-005971-00009975	Ronald Fein	Anna Wood	Deliberative Process; Attorney Client; Withhold; Ex. 5 - Civil Privileges	Email chain among EPA counsel and staff in R1 and HQ discussing legal issues surrounding OCS permitting, mentioning Cape Wind in passing (though not specifically related to it) and making recommendations regarding legal options to pursue.
EPA-R1-FOIA-005971-00011020	Ronald Fein	Anna Wood	Attorney Client; Withhold; Ex. 5 - Civil Privileges	Email chain between HQ staff and R1 counsel analyzing legal issues regarding OCS permitting.
EPA-R1-FOIA-005971-00009057	Ronald Fein	Brendan McCahill	Attorney Client; Withhold; Ex. 5 - Civil Privileges	Email from EPA staff to EPA counsel requesting legal advice regarding the issuance of the final permit decision letter for the OCS permit.
EPA-R1-FOIA-005971-00011087	Ronald Fein	Brendan McCahill	Attorney Client; Withhold; Ex. 5 - Civil Privileges	Email from EPA staff to EPA counsel requesting legal advice regarding the issuance of the final permit decision letter for the OCS permit.
EPA-R1-FOIA-005971-00011187	Ronald Fein	Brian Doster	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among EPA regional and HQ counsel discussing and analyzing legal issues surrounding the issuance of final permit decision letters.
EPA-R1-FOIA-005971-00010811	Ronald Fein	Brian Doster	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain between HQ counsel and R1 counsel requesting and providing legal advice on a draft of the Region's Response to the Petition for Review in the EAB appeal In re Cape Wind Assocs., LLC.
EPA-R1-FOIA-005971-00011127	Ronald Fein	Brian Doster	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email communication between R1 counsel and HQ counsel requesting and providing legal advice regarding the final permit decision letter.
EPA-R1-FOIA-005971-00010805	Ronald Fein	Brian Doster	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from HQ counsel to R1 counsel providing legal advice regarding a draft of the Region's Response to the Petition for Review in the EAB appeal In re Cape Wind Assocs., LLC.
EPA-R1-FOIA-005971-00009383	Ronald Fein	Brian Hennessey	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain b//n EPA counsel and staff discussing preparation of arguments for the Region's Response to the Petition for Review and reflecting the thoughts and opinions of counsel.
EPA-R1-FOIA-005971-00009384	Ronald Fein	Brian Hennessey	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain b//n EPA counsel and staff discussing preparation of arguments for the Region's Response to the Petition for Review and reflecting the thoughts and opinions of counsel.
EPA-R1-FOIA-005971-00009386	Ronald Fein	Brian Hennessey	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain b//n EPA counsel and staff discussing preparation of arguments for the Region's Response to the Petition for Review and reflecting the thoughts and opinions of counsel.
EPA-R1-FOIA-005971-00009390	Ronald Fein	Brian Hennessey	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain b//n EPA counsel and staff discussing preparation of arguments for the Region's Response to the Petition for Review and reflecting the thoughts and opinions of counsel.
EPA-R1-FOIA-005971-00009393	Ronald Fein	Brian Hennessey	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain b//n EPA counsel and staff discussing preparation of arguments for the Region's Response to the Petition for Review and reflecting the thoughts and opinions of counsel.
EPA-R1-FOIA-005971-00010820	Ronald Fein	Brian Hennessey	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain between EPA counsel and staff discussing preparation of arguments for the Region's Response to the Petition for Review reflecting the thoughts and opinions of counsel.

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Doc ID Beg	Email To	Email From	Exemption Status	Description
EPA-R1-FOIA-005971-00009589	Ronald Fein	Brian Hennessey	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain between EPA counsel and staff discussing preparation of arguments in the Region's Response to the Petition for Review reflecting the thoughts and opinions of counsel.
EPA-R1-FOIA-005971-00009592	Ronald Fein	Brian Hennessey	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain between EPA counsel and staff discussing preparation of arguments in the Region's Response to the Petition for Review reflecting the thoughts and opinions of counsel.
EPA-R1-FOIA-005971-00009023	Ronald Fein	Brian Hennessey	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain between EPA counsel and staff discussing preparation of arguments in the Region's Response to the Petition for Review.
EPA-R1-FOIA-005971-00009024	Ronald Fein	Brian Hennessey	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain between EPA counsel and staff discussing preparation of arguments in the Region's Response to the Petition for Review.
EPA-R1-FOIA-005971-00009027	Ronald Fein	Brian Hennessey	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain between EPA counsel and staff discussing preparation of arguments in the Region's Response to the Petition for Review.
EPA-R1-FOIA-005971-00010850	Ronald Fein	Brian Hennessey	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain between EPA counsel and staff discussing preparation of the Region's Response to the Petition for Review.
EPA-R1-FOIA-005971-00011097	Ronald Fein	Dave Bray	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among EPA counsel in Regions 1 and 10 and HQ discussing and analyzing legal issues surrounding OCS.
EPA-R1-FOIA-005971-00009059	Ronald Fein	Dave Bray	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys in different regions discussing and analysing legal issues involved in OCS permitting in the context of an OCS permit in Region 10.
EPA-R1-FOIA-005971-00009174	Ronald Fein	Dave Conroy	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails between EPA counsel and staff discussing legal issues associated with the EAB appeal and the Region's Response to the Petition.
EPA-R1-FOIA-005971-00010917	Ronald Fein	David Coursen	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain involving multiple EPA counsel discussing and analyzing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00011075	Ronald Fein	David Coursen	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain involving multiple EPA counsel discussing and analyzing legal issues related to OCS sources.
EPA-R1-FOIA-005971-00009591	Ronald Fein	Donald Dahl	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain b//n EPA staff and counsel regarding preparation of the Region's initial filing in In re Cape Wind Assocs, LLC.
EPA-R1-FOIA-005971-00010753	Ronald Fein	Doug Hardesty	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain involving multiple EPA counsel discussing and analyzing legal issues related to OCS sources.
EPA-R1-FOIA-005971-00010899	Ronald Fein	Doug Hardesty	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain involving multiple EPA counsel discussing and analyzing legal issues related to OCS sources.
EPA-R1-FOIA-005971-00010905	Ronald Fein	Doug Hardesty	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain involving multiple EPA counsel discussing and analyzing legal issues related to OCS sources.
EPA-R1-FOIA-005971-00011210	Ronald Fein	Joseph Siegel	Attorney Client; Withhold; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys discussing legal issues regarding the applicability of NSPS.
EPA-R1-FOIA-005971-00010752	Ronald Fein	Julie Vergeront	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among EPA attorneys in several regions analyzing and discussing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00011026	Ronald Fein	Julie Vergeront	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among EPA attorneys in several regions analyzing and discussing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00011030	Ronald Fein	Julie Vergeront	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among EPA attorneys in several regions analyzing and discussing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00011038	Ronald Fein	Julie Vergeront	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among EPA attorneys in several regions analyzing and discussing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00011073	Ronald Fein	Julie Vergeront	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among EPA attorneys in several regions analyzing and discussing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00011059	Ronald Fein	Julie Vergeront	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among EPA attorneys in several regions requesting and providing legal advice regarding OCS permitting.
EPA-R1-FOIA-005971-00011081	Ronald Fein	Julie Vergeront	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among EPA attorneys in several regions requesting and providing legal advice regarding OCS sources.
EPA-R1-FOIA-005971-00011099	Ronald Fein	Julie Vergeront	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys discussing legal issues regarding issues related to corresponding onshore area.
EPA-R1-FOIA-005971-00011137	Ronald Fein	Julie Vergeront	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain b//n EPA attorneys in R1 and R10 discussing and analyzing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00011042	Ronald Fein	Julie Vergeront	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email exchange between EPA attorneys in R1 and R10 analyzing and discussing legal issues in OCS permitting.

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Doc ID Beg	Email To	Email From	Exemption Status	Description
EPA-R1-FOIA-005971-00011019	Ronald Fein	Kathleen Cox	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys discussing and analyzing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00011021	Ronald Fein	Kelly Fortin	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys discussing and analyzing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00011033	Ronald Fein	Keri Powell	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys in different regions discussing and analyzing legal issues surrounding the interpretation of certain provisions of the CAA and the Outer Continental Shelf Lands Act in the context of an OCS permit in Region 10.
EPA-R1-FOIA-005971-00011078	Ronald Fein	Keri Powell	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys in different regions discussing and analyzing legal issues surrounding the interpretation of certain provisions of the CAA and the Outer Continental Shelf Lands Act in the context of an OCS permit in Region 10.
EPA-R1-FOIA-005971-00011086	Ronald Fein	Keri Powell	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys in different regions discussing and analyzing legal issues surrounding the interpretation of certain provisions of the CAA and the Outer Continental Shelf Lands Act in the context of an OCS permit in Region 10.
EPA-R1-FOIA-005971-00010793	Ronald Fein	Kristi Smith	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n R1 counsel and HQ counsel discussing and analyzing legal issues in a draft of the Region's Response to the Petition in the EAB appeal.
EPA-R1-FOIA-005971-00010779	Ronald Fein	Kristi Smith	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n R1 counsel and HQ counsel requesting and providing legal advice for the Region's Response to the Petition in the EAB appeal.
EPA-R1-FOIA-005971-00010781	Ronald Fein	Kristi Smith	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n R1 counsel and HQ counsel requesting and providing legal advice for the Region's Response to the Petition in the EAB appeal.
EPA-R1-FOIA-005971-00010784	Ronald Fein	Kristi Smith	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n R1 counsel and HQ counsel requesting and providing legal advice for the Region's Response to the Petition in the EAB appeal.
EPA-R1-FOIA-005971-00010785	Ronald Fein	Kristi Smith	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n R1 counsel and HQ counsel requesting and providing legal advice for the Region's Response to the Petition in the EAB appeal.
EPA-R1-FOIA-005971-00010788	Ronald Fein	Kristi Smith	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n R1 counsel and HQ counsel requesting and providing legal advice for the Region's Response to the Petition in the EAB appeal.
EPA-R1-FOIA-005971-00010880	Ronald Fein	Marilyn Kuray	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n EPA counsel discussing litigation strategy in the EAB permit appeal, In re Cape Wind Assocs/, LLC.
EPA-R1-FOIA-005971-00010782	Ronald Fein	Meghan MacKenzie	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails between EPA counsel and EPA legal intern analyzing legal issues raised in the permit appeal before the EAB.
EPA-R1-FOIA-005971-00010807	Ronald Fein	Meghan MacKenzie	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails between EPA counsel and EPA legal intern analyzing legal issues raised in the permit appeal before the EAB.
EPA-R1-FOIA-005971-00010808	Ronald Fein	Meghan MacKenzie	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails between EPA counsel and EPA legal intern analyzing legal issues raised in the permit appeal before the EAB.
EPA-R1-FOIA-005971-00010812	Ronald Fein	Meghan MacKenzie	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails between EPA counsel and EPA legal intern analyzing legal issues raised in the permit appeal before the EAB.
EPA-R1-FOIA-005971-00011104	Ronald Fein	Phil Lorang	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys discussing and analyzing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00011106	Ronald Fein	Phil Lorang	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys discussing and analyzing legal issues in OCS permitting.
EPA-R1-FOIA-005971-00010903	Ronald Fein	Phil Lorang	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA counsel discussing and analyzing legal issues regarding OCS sources.
EPA-R1-FOIA-005971-00011202	Ronald Fein	Sally Burt	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	email chain among EPA managers and counsel regarding draft briefing for the Regional Administrator on South Terminal project in New Bedford to prepare RA for meeting with state and local officials in New Bedford; containing the evaluations, opinions, and recommendations of EPA personnel.
EPA-R1-FOIA-005971-00010816	Ronald Fein	Samir Bukhari	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email exchange among several EPA counsel discussing legal issues in the EAB permit appeal.
EPA-R1-FOIA-005971-00010774	Ronald Fein	Samir Bukhari	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email exchange between EPA counsel discussing legal issues in the EAB permit appeal.
EPA-R1-FOIA-005971-00010769	Ronald Fein	Stephen Perkins	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA manager to EPA counsel discussing legal issues in a draft of the Region's Response to the Petition for Review in the EAB permit appeal.

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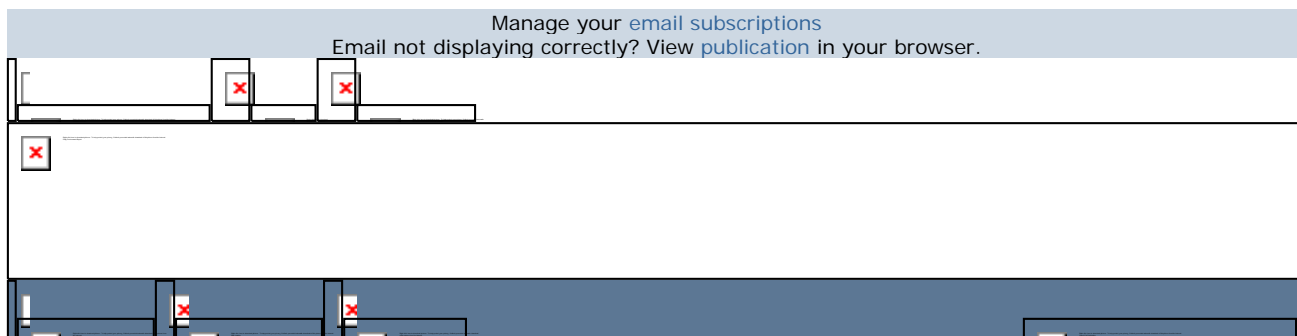
Doc ID Beg	Email To	Email From	Exemption Status	Description
EPA-R1-FOIA-005971-00010520	Ronald Fein	Stephen Perkins	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA manager to EPA counsel discussing legal issues in a draft of the Region's Response to the Petition for Review in the EAB permit appeal.
EPA-R1-FOIA-005971-00010771	Ronald Fein	Tim Williamson	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email between EPA counsel discussing the Region's Response to the Petition for Review in the EAB permit appeal.
EPA-R1-FOIA-005971-00010834	Ronald Fein	Tim Williamson	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain between EPA R1 counsel requesting legal advice on a draft of the Region's Response to the Petition for Review and discussing the EAB appeal.
EPA-R1-FOIA-005971-00010817	Ronald Fein	Tim Williamson	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails between EPA counsel discussing, and requesting legal advice related to, the Region's Response to the Petition for Review in the EAB permit appeal.
EPA-R1-FOIA-005971-00010524	Ronald Fein; Brendan Mccahill; Dave Conroy	Stephen Perkins	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Email chain including draft of excerpt prepared by BOEMRE for the Environmental Assessment regarding the OCS permit, and requesting comments and recommendations.
EPA-R1-FOIA-005971-00011191	Ronald Fein; Dawn Messier	Brian Doster	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among EPA regional and HQ counsel discussing and analyzing legal issues surrounding the issuance of final permit decision letters.
EPA-R1-FOIA-005971-00011135	Ronald Fein; Keri Powell; David Coursen	Julie Vergeront	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain among several EPA attorneys discussing legal issues regarding OCS sources.
EPA-R1-FOIA-005971-00010176	Stephen Perkins	Ann Williams	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Email chain among EPA managers and counsel regarding draft briefing for Regional Administrator on South Terminal project in New Bedford to prepare RA for meeting with state and local officials in New Bedford; containing the evaluations, opinions, and recommendations of EPA personnel.
EPA-R1-FOIA-005971-00009187	Stephen Perkins	Cynthia Greene	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Emails among EPA staff containing briefing materials for Regional Administrator on Cape Wind.
EPA-R1-FOIA-005971-00010541	Stephen Perkins	Joanna Jerison	Deliberative Process; Attorney Client; Withhold; Ex. 5 - Civil Privileges	Emails from EPA R1 counsel to EPA HQ and R1 staff providing background and offering recommendations for a meeting with DOE.
EPA-R1-FOIA-005971-00010174	Stephen Perkins	Nancy Grantham	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	email chain among EPA managers and counsel regarding draft briefing for the Regional Administrator on South Terminal project in New Bedford to prepare RA for meeting with state and local officials in New Bedford; containing the evaluations, opinions, and recommendations of EPA personnel.
EPA-R1-FOIA-005971-00009518	Stephen Perkins	Nancy Grantham	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Email chain among EPA R1 managers discussing the preparation of briefing materials for EPA Administrator on the South Terminal project in New Bedford, including recommendations for a meeting with state officials
EPA-R1-FOIA-005971-00010773	Stephen Perkins	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email exchange between EPA counsel and staff regarding the preparation of the Region's Response to the Petition, discussing legal issues raised in the appeal and revealing the thoughts and opinions of counsel.
EPA-R1-FOIA-005971-00010756	Stephen Perkins	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA managers, counsel, and staff discussing the Region's Response to Petition in the EAB permit appeal and requesting legal advice.
EPA-R1-FOIA-005971-00010521	Stephen Perkins	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n EPA counsel and EPA manager discussing draft of the Region's Response to the Petition for Review in the EAB appeal.
EPA-R1-FOIA-005971-00010518	Stephen Perkins	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails from EPA counsel to EPA staff and other attorneys discussing the Region's draft Response to the Petition for Review.
EPA-R1-FOIA-005971-00010170	Stephen Perkins; James Owens; Susan Studlien; Ann Williams; Cynthia Catri; Carl Deloi; Nancy Grantham; ElaineT Stanley	Carl Dierker	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Email from EPA Regional Counsel to EPA managers, staff, and attorneys requesting input on draft internal briefing for Regional Administrator on South Terminal project in New Bedford to prepare RA for meeting with state and local officials in New Bedford; containing the evaluations, opinions, and recommendations of EPA personnel.
EPA-R1-FOIA-005971-00010818	Tim Williamson	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain between EPA R1 counsel requesting legal advice on a draft of the Region's Response to the Petition for Review and discussing the EAB appeal.
EPA-R1-FOIA-005971-00010777	Tim Williamson; Kristi Smith	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to other EPA counsel requesting legal advice in the drafting of the Region's Response to the Petition for Review in the EAB appeal.
EPA-R1-FOIA-005971-00011111	Tim Williamson; Shanita Loving	CarolAnn Siciliano	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Emails b//n EPA HQ and R1 attorneys discussing significant legal issues and possible litigation.
EPA-R1-FOIA-005971-00009522	Timothy Timmermann	Paul Wintrob	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	email chain among EPA managers and counsel regarding draft briefing for the Regional Administrator on South Terminal project in New Bedford to prepare RA for meeting with state and local officials in New Bedford; containing the evaluations, opinions, and recommendations of EPA personnel.

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Doc ID Beg	Email To	Email From	Exemption Status	Description
EPA-R1-FOIA-005971-00010700	Timothy Timmermann	Paul Wintrob	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	email chain among EPA managers and counsel regarding draft briefing for the Regional Administrator on South Terminal project in New Bedford to prepare RA for meeting with state and local officials in New Bedford; containing the evaluations, opinions, and recommendations of EPA personnel.
EPA-R1-FOIA-005971-00010702	Timothy Timmermann	Paul Wintrob	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	email chain among EPA managers and counsel regarding draft briefing for the Regional Administrator on South Terminal project in New Bedford to prepare RA for meeting with state and local officials in New Bedford; containing the evaluations, opinions, and recommendations of EPA personnel.
EPA-R1-FOIA-005971-00009520	Timothy Timmermann	Paul Wintrob	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Email chain among EPA R1 managers discussing the preparation of briefing materials for EPA Administrator in anticipation of a meeting with state officials regarding the South Terminal project in New Bedford.
EPA-R1-FOIA-005971-00011132	Timothy Timmermann	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain from EPA attorney to other EPA attorneys requesting legal advice regarding offshore leases in R3; briefly mentioning Cape Wind.
EPA-R1-FOIA-005971-00009064	Timothy Timmermann	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel in R3 to multiple EPA counsel requesting legal advice related to OCS in R3.
EPA-R1-FOIA-005971-00010699	William Walshrogalski	Timothy Timmermann	Attorney Client; Withhold; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA staff analyzing legal issues regarding modifying a COP
EPA-R1-FOIA-005971-00010523	Curt Spalding; Stephen Perkins; Ida McDonnell	Angel McCoy	Deliberative Process; Withhold; Ex. 5 - Civil Privileges	Email from BOEMRE staff to EPA R1 managers and staff requesting comments/recommendations on draft language on the OCS permit for the Environmental Assessment.
EPA-R1-FOIA-005971-00009018	Dave Conroy; Ida McDonnell; Brendan McCahill; Tim Williamson; Brian Hennessey; Samir Bukhari; Kristi Smith; Elliott Zenick; Donald Dahl	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to other EPA attorneys and staff discussing a deliberative draft of the Region's Response to Petition (in the permit appeal, In re Cape Wind Assocs., LLC) and requesting review and legal advice.
EPA-R1-FOIA-005971-00009028	Donald Dahl; Brendan McCahill	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA staff discussing preparation of the Region's Response to the Petition for Review in In re Cape Wind Assocs., LLC and reflecting the thoughts and opinions of counsel.
EPA-R1-FOIA-005971-00010839	Donald Dahl; Brendan McCahill	Ronald Fein	Deliberative Process; Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA staff regarding preparation of the Region's initial filing in In re Cape Wind Assocs, LLC.
EPA-R1-FOIA-005971-00009177	Ronald Fein; Ida McDonnell; Brendan McCahill	Dave Conroy	Deliberative Process; Attorney Client; Withhold; Ex. 5 - Civil Privileges	Email from EPA managers to EPA counsel requesting legal advice on responding to pressing inquiry.
EPA-R1-FOIA-005971-00009182	Ida McDonnell; Dave Conroy; Brendan McCahill; Tim Williamson; Carl Dierker; Nancy Grantham	Ronald Fein	Attorney Client; Withhold; Ex. 5 - Civil Privileges	Email from EPA counsel to EPA managers and staff summarizing possible legal issues arising from the DC Circuit's remand of the FAA's "no hazard determination" for Cape Wind
EPA-R1-FOIA-005971-00009063	Brendan McCahill	Michael Knapp	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA legal intern to EPA staff providing legal advice on emissions reduction plans.
EPA-R1-FOIA-005971-00010838	Samir Bukhari	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email chain between EPA counsel providing legal advice and discussing legal issues associated with the EAB appeal and the Region's Response to the Petition.
EPA-R1-FOIA-005971-00010814	Samir Bukhari; Tim Williamson	Ronald Fein	Attorney Client; Withhold; Attorney Work Product; Ex. 5 - Civil Privileges	Email from EPA R1 counsel to other R1 counsel requesting legal advice on a draft of the Region's Response to the Petition for Review.

Schena, Cristeen

From: BNA Highlights <bhighlig@bna.com>
Sent: Tuesday, April 29, 2014 10:45 PM
To: Walsh-Rogalski, William
Subject: Apr. 30 -- BNA, Inc. Daily Environment Report



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NEWS

Air Pollution

Challenges Remain Despite Supreme Court Decision Reinstating EPA Cross-State Rule

The Environmental Protection Agency scored a victory when the U.S. Supreme Court reinstated the cross-state emissions rule for power plants, but changing market and compliance conditions may force the agency to rethink how the rule is implemented...

Air Pollution

Court Orders EPA to Propose Overdue National Standards for Ozone by December

A federal district court ordered the Environmental Protection Agency to propose by Dec. 1 delayed national ambient air quality standards for ozone (Sierra Club v. EPA, N.D. Cal., No. 13-2809, 4/29/14)....

Air Pollution

Environmental Groups Attack Proposal On Pennsylvania Power Plant Emissions

Pennsylvania's proposed regulations to control power plant emissions fall short because they don't require coal-fired plants to use the most effective, reasonably available technology for controlling nitrogen oxides emissions,...

Air Pollution

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Supreme Court Upholds Cross-State Rule, Says EPA Interpretation of Law Reasonable

The U.S. Supreme Court on April 29 reinstated an Environmental Protection Agency rule intended to cost-effectively reduce pollution that crosses state lines, saying the agency reasonably interpreted the Clean Air Act (EPA v. EME Homer City...

Air Pollution

Wyoming Intends to Sue EPA Over Lead Plan

Wyoming has given notice of its intent to sue the Environmental Protection Agency for alleged failure to take action on the state's plan to address lead pollution. The plan is designed to ensure Wyoming's compliance with the 2008 national...

Brownfields

Clarifications to Vapor Migration Standard Expected by 2016, Task Force Chair Says

ASTM International hopes to publish in mid-2015 or 2016 a revised standard to screen brownfields sites for the likelihood of vapor migration, the chairman of the task force undertaking the revisions told Bloomberg BNA April 29....

Climate Change

EPA Issues GHG Permit to Texas Company

A Texas renewable power producer received a final greenhouse gas prevention of significant deterioration (PSD) construction permit, a move that will allow the clean energy company to move ahead with development of a natural gas-fired, combined-cycle...

Climate Change

EPA Put Off Forwarding Power Plant Rule Last Fall With Eye on Midterms, Inhofe Says

Republican Sen. James Inhofe (Okla.) said April 29 he has confirmed that the Environmental Protection Agency held off on forwarding to the Federal Register its proposal to limit greenhouse gases from new power plants for more than two months...

Climate Change

Tornadoes May Have Been 'More Tragic' Without Forecast Investments, Official Says

The tornadoes that have hit the South in recent days could have been even "more tragic" if communities had not had early warning, a White House science adviser said April 29....

Corporate Responsibility

Chairman Says SEC Will Implement Portions Of Conflict Minerals Rule Upheld by Court

The Securities and Exchange Commission will implement the parts of its conflict minerals rule that were not rejected by the U.S. Court of Appeals for the District of Columbia Circuit, Chairman Mary Jo White said April 29....

Endangered Species

U.S. Fish and Wildlife Lists Frogs, Toad For Endangered Species Act Protections

The U.S. Fish and Wildlife Service announced April 29 it will classify two frog populations in the Sierra Nevada Mountains as endangered and one toad species in the same mountains as threatened....

Energy

DOE Proceeds With Review of Cape Wind Loan Guarantee After Favorable Court Ruling

The Energy Department is proceeding with "active review" of an application for a loan guarantee by Cape Wind Associates LLC after a federal court decision in March upholding the Interior Department's approval of the company's...

Energy

EIA to Examine Impacts of Lifting Ban On Crude Oil Exports Throughout 2014

The Energy Information Administration will examine the implications of lifting the U.S. crude oil export ban through a series of small studies throughout 2014, EIA Administrator Adam Sieminski said April 29. ...

Energy

Energy Department Aims to Double Electricity From Hydropower by 2030

The Energy Department is seeking to double the amount of electricity generated by hydropower by 2030, Secretary Ernest Moniz said April 29 as the department released a new assessment that said an additional 65 gigawatts of potential hydropower...

Energy

Senate Expected to Consider Energy Bill, Could Be Vehicle for Vote on Keystone

The Senate is likely to consider energy efficiency legislation that could be a vehicle for a vote on the Keystone XL pipeline and other controversial energy issues the week of May 5, the legislation's sponsor, Sen. Jeanne Shaheen (D-N.H.),...

International Issues

Bid by Ecuadoreans to Delay Injunction Rejected

A ruling barring a group of Ecuadorean plaintiffs and their attorneys from profiting or enforcing within the U.S. a \$9.5 billion judgment against Chevron Corp. for contamination of the Amazon rainforest will stand after the U.S. District...

Pesticides

EPA to Review European Union Ban On Diphenylamine Use on Apples, Pears

The Environmental Protection Agency said it will review the European Union's ban on use of the pesticide diphenylamine, commonly known as DPA, on apples and determine if available evidence merits "further action" in the U.S....

Pesticides

Expanded Field Testing Sought on Mosquitoes

A Kentucky-based company has asked the Environmental Protection Agency to allow expanded field testing of mosquitoes infected with the microbial pesticide wolbachia pipientis, according to a notice scheduled for publication April 30....

Pesticides

Wyoming Seeks Regulatory Exemption For Emergency Use of Insecticide on Alfalfa

The Environmental Protection Agency is considering a request from the Wyoming Department of Agriculture that would allow for an unregistered use of the insecticide diflubenzuron to control grasshoppers and Mormon crickets....

Security

Groups Urge Revitalization, Enforcement Of Existing Chemical Security Regulations

Improving chemical security should be done by using existing law and through greater enforcement of existing regulations, 16 industry groups said. ...

Solid Waste

Industry, Environmental Groups Urge Remand of EPA Waste Materials Rule

Environmental and industry groups separately and for different reasons implored a federal appeals court to send an Environmental Protection Agency waste rule back to the agency for further changes (Solvay USA Inc. v. EPA, D.C. Cir., No. 11-1189,...

Superfund

State Showed Release of Contaminants A Substantial Factor in Off-Site Cleanup Costs

The state of New York established at trial that the release of contaminants from an industrial site was a substantial factor in causing the state to incur cleanup costs at a downgradient site, the U.S. District Court for the Eastern District...

Sustainability

Nature Conservancy, JPMorgan Start Sustainability Investment Project 'Pipeline'

The Nature Conservancy and JPMorgan Chase and Co. announced a new venture April 29 that aims to fill a multibillion-dollar investment void for sustainability projects, while giving investors a return on their funding....

Sustainability

NRDC, Financial Firms Launch Index To Help Investors Avoid Fossil Fuel Stocks

The Natural Resources Defense Council has partnered with fund manager BlackRock and global index provider FTSE Group to provide investors with a road map to avoid stocks linked to fossil fuels....

Toxic Substances

**EPA Official Says Bill to Overhaul TSCA
Would Not Adequately Protect Public Health**

A draft legislative proposal to overhaul the nation's law governing commercial chemicals falls short of giving the Environmental Protection Agency the authority needed to protect public health, the head of EPA's chemical and pesticide...

Trade

**EU Candidates Support Environmental
Standards in Any Free-Trade Agreement**

The four leading candidates to become the next European Commission president insist the U.S. must adopt improved data privacy measures if the European Union is to finalize and ratify the Transatlantic Trade and Investment Partnership....

Transportation

**Administration's Transportation Plan
Aims to Streamline Environmental Reviews**

A range of measures to further streamline environmental reviews for surface transportation projects are included in the Obama administration's authorization proposal announced April 29 by Transportation Secretary Anthony Foxx....

Water Pollution

**EPA Asks Scientists to Provide Evidence
On Quantifying Isolated Waters' Connectivity**

The Environmental Protection Agency asked a panel of scientific advisers to provide additional scientific literature on approaches to quantifying the "significant nexus" between waters and wetlands in uplands with downstream...

Water Pollution

**Study Says California Needs Real-Time,
Online Platform to Track Energy, Water Use**

As California grapples with a persistent drought, a Stanford University study calls on the state's policy makers to invest in developing a single online platform to integrate various databases on energy and water availability, use and...

Water Resources

**British Columbia Identifies Ways to Improve
Watershed Protections in Forestry Areas**

An investigation into how well a law governing forestry practices in Canada's British Columbia province protects watersheds has identified ways to ensure government objectives for drinking water quality and quantity are met....

Water Resources

**Colorado Supreme Court Lets Stand
Certification of Municipal Water Delivery**

The Colorado Supreme Court's refusal to take up an appeal in the case of a Colorado Springs municipal water delivery project means the project may now proceed as planned (Chostner v. Colorado Water Quality Control Comm'n, Colo. Sup....

Water Resources

Lawmakers to Complete Water Bill by Adding 11 More Infrastructure, Ecosystem Projects

Eleven additional water infrastructure and ecosystem restoration projects will be approved for the Water Resources Reform and Development Act (H.R. 3080) before it emerges from a House-Senate conference, House lawmakers said during a...

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